



Sen. Ira I. Silverstein

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09400SB1979sam001

LRB094 11877 WGH 44406 a

1 AMENDMENT TO SENATE BILL 1979

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1979 by replacing  
3 everything after the enacting clause with the following:

4 "ARTICLE 1. FINDINGS

5 Section 1-5. Findings. The General Assembly finds as  
6 follows:

7 (1) The increasing cost of medical malpractice insurance  
8 results in increased financial burdens on physicians and  
9 hospitals.

10 (2) The increasing cost of medical malpractice insurance in  
11 Illinois is believed to have contributed to the reduction of  
12 the availability of medical care in portions of the State and  
13 is believed to have discouraged some medical students from  
14 choosing Illinois as the place they will receive their medical  
15 education and practice medicine.

16 (3) The public would benefit from making the services of  
17 hospitals and physicians more available.

18 (4) In order to preserve the public health, safety, and  
19 welfare of the people of Illinois, the current medical  
20 malpractice situation requires reforms that enhance the  
21 State's oversight of physicians and ability to discipline  
22 physicians, that increase the State's oversight of medical  
23 liability insurance carriers, that reduce the number of  
24 nonmeritorious healing art malpractice actions, that encourage

1 physicians to provide voluntary services at free medical  
2 clinics, that encourage physicians and hospitals to continue  
3 providing health care services in Illinois, and that encourage  
4 physicians to practice in medical care shortage areas.

5 ARTICLE 5. LITIGATION

6 Section 5-5. The Health Care Arbitration Act is amended by  
7 changing Sections 8 and 9 as follows:

8 (710 ILCS 15/8) (from Ch. 10, par. 208)

9 Sec. 8. Conditions. Every health care arbitration  
10 agreement shall be subject to the following conditions:

11 (a) The agreement is not a condition to the rendering of  
12 health care services by any party and the agreement has been  
13 executed by the recipient of health care services at the  
14 inception of or during the term of provision of services for a  
15 specific cause by either a health care provider or a hospital;  
16 and

17 (b) The agreement is a separate instrument complete in  
18 itself and not a part of any other contract or instrument and  
19 an executed copy of the agreement shall be provided to the  
20 patient or the patient's legal representative upon signing; and

21 (c) The agreement may not limit, impair, or waive any  
22 substantive rights or defenses of any party, including the  
23 statute of limitations; and

24 (d) The agreement shall not limit, impair, or waive the  
25 procedural rights to be heard, to present material evidence, to  
26 cross-examine witnesses, and to be represented by an attorney,  
27 or other procedural rights of due process of any party.

28 (e) (Blank). ~~As a part of the discharge planning process~~  
29 ~~the patient or, if appropriate, members of his family must be~~  
30 ~~given a copy of the health care arbitration agreement~~  
31 ~~previously executed by or for the patient and shall re-affirm~~

1 ~~it. Failure to comply with this provision during the discharge~~  
2 ~~planning process shall void the health care arbitration~~  
3 ~~agreement.~~

4 (f) The changes to this Section made by this amendatory Act  
5 of the 94th General Assembly apply to health care arbitration  
6 agreements executed on or after its effective date.

7 (Source: P.A. 80-1012.)

8 (710 ILCS 15/9) (from Ch. 10, par. 209)

9 Sec. 9. Mandatory Provisions.

10 (a) Every health care arbitration agreement shall be  
11 clearly captioned "Health Care Arbitration Agreement".

12 (b) Every health care arbitration agreement in relation to  
13 health care services rendered during hospitalization shall  
14 specify the date of commencement of hospitalization. Every  
15 health care arbitration agreement in relation to health care  
16 services not rendered during hospitalization shall state the  
17 specific cause for which the services are provided.

18 (c) Every health care arbitration agreement may be  
19 cancelled by any signatory (1) within 120 ~~60~~ days of its  
20 execution or within 30 ~~60~~ days of the date of the patient's  
21 discharge from the hospital, whichever is later, as to an  
22 agreement in relation to health care services rendered during  
23 hospitalization, ~~provided, that if executed other than at the~~  
24 ~~time of discharge of the patient from the hospital, the health~~  
25 ~~care arbitration agreement be reaffirmed at the time of the~~  
26 ~~discharge planning process in the same manner as provided for~~  
27 ~~in the execution of the original agreement;~~ or (2) within 120  
28 ~~60~~ days of the date of its execution, or the last date of  
29 treatment by the health care provider, whichever is later, as  
30 to an agreement in relation to health care services not  
31 rendered during hospitalization. Provided, that no health care  
32 arbitration agreement shall be valid after 4 ~~2~~ years from the  
33 date of its execution. An employee of a hospital or health care

1 provider who is not a signatory to an agreement may cancel such  
2 agreement as to himself until 30 days following his  
3 notification that he is a party to a dispute or issue on which  
4 arbitration has been demanded pursuant to such agreement. If  
5 any person executing a health care arbitration agreement dies  
6 before the period of cancellation as outlined above, the  
7 personal representative of the decedent shall have the right to  
8 cancel the health care arbitration agreement within 60 days of  
9 the date of his appointment as the legal representative of the  
10 decedent's estate. ~~Provided, that if no legal representative is~~  
11 ~~appointed within 6 months of the death of said decedent the~~  
12 ~~next of kin of such decedent shall have the right to cancel the~~  
13 ~~health care arbitration agreement within 8 months from the date~~  
14 ~~of death.~~

15 (d) Every health care arbitration agreement shall contain  
16 immediately above the signature lines, in upper case type in  
17 printed letters of at least 3/16 inch height, a caption and  
18 paragraphs as follows:

19 "AGREEMENT TO ARBITRATE HEALTH CARE

20 NEGLIGENCE CLAIMS

21 NOTICE TO PATIENT

22 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO  
23 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO  
24 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO  
25 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM  
26 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE  
27 REPLACED BY AN ARBITRATION PROCEDURE.

28 THIS AGREEMENT MAY BE CANCELLED WITHIN 120 ~~60~~ DAYS OF  
29 SIGNING OR 30 ~~60~~ DAYS AFTER YOUR HOSPITAL DISCHARGE,  
30 WHICHEVER IS LATER, OR 120 ~~60~~ DAYS AFTER YOUR LAST MEDICAL  
31 TREATMENT IN RELATION TO HEALTH CARE SERVICES NOT RENDERED  
32 DURING HOSPITALIZATION.

33 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT  
34 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF

1 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS  
2 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE  
3 DECISION OF THE ARBITRATION PANEL."

4 (e) An ~~an~~ executed copy of the AGREEMENT TO ARBITRATE  
5 HEALTH CARE CLAIMS ~~and any reaffirmation of that agreement as~~  
6 ~~required by this Act~~ shall be given to the patient or the  
7 patient's legally authorized representative upon signing  
8 ~~during the time of the discharge planning process or at the~~  
9 ~~time of discharge.~~

10 (f) The changes to this Section made by this amendatory Act  
11 of the 94th General Assembly apply to health care arbitration  
12 agreements executed on or after its effective date.

13 (Source: P.A. 91-156, eff. 1-1-00.)

14 Section 5-10. The Code of Civil Procedure is amended by  
15 reenacting and changing Sections 2-402, 2-622, 2-1107.1,  
16 2-1109, 2-1701, 2-1702, and 8-2501, by changing Sections  
17 2-1114, 2-1704, and 8-1901, and by adding Sections 2-1105.01,  
18 2-1704.5, and 2-1721 as follows:

19 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

20 (Text of Section WITHOUT the changes made by P.A. 89-7,  
21 which has been held unconstitutional)

22 Sec. 2-402. Respondents in discovery. The plaintiff in any  
23 civil action may designate as respondents in discovery in his  
24 or her pleading those individuals or other entities, other than  
25 the named defendants, believed by the plaintiff to have  
26 information essential to the determination of who should  
27 properly be named as additional defendants in the action.

28 Persons or entities so named as respondents in discovery  
29 shall be required to respond to discovery by the plaintiff in  
30 the same manner as are defendants and may, on motion of the  
31 plaintiff, be added as defendants if the evidence discloses the  
32 existence of probable cause for such action.

1 A person or entity named a respondent in discovery may upon  
2 his or her own motion be made a defendant in the action, in  
3 which case the provisions of this Section are no longer  
4 applicable to that person.

5 A copy of the complaint shall be served on each person or  
6 entity named as a respondent in discovery.

7 Each respondent in discovery shall be paid expenses and  
8 fees as provided for witnesses.

9 A person or entity named as a respondent in discovery in  
10 any civil action may be made a defendant in the same action at  
11 any time within 6 months after being named as a respondent in  
12 discovery, even though the time during which an action may  
13 otherwise be initiated against him or her may have expired  
14 during such 6 month period. An extension from the original  
15 6-month period for good cause may be granted only once for up  
16 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)  
17 good cause. Notwithstanding the limitations in this Section,  
18 the court may grant additional reasonable extensions from this  
19 6-month period for a failure or refusal on the part of the  
20 respondent to comply with timely filed discovery.

21 The changes to this Section made by this amendatory Act of  
22 the 94th General Assembly apply to causes of action pending on  
23 or after its effective date.

24 (Source: P.A. 86-483.)

25 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

26 (Text of Section WITHOUT the changes made by P.A. 89-7,  
27 which has been held unconstitutional)

28 Sec. 2-622. Healing art malpractice.

29 (a) In any action, whether in tort, contract or otherwise,  
30 in which the plaintiff seeks damages for injuries or death by  
31 reason of medical, hospital, or other healing art malpractice,  
32 the plaintiff's attorney or the plaintiff, if the plaintiff is  
33 proceeding pro se, shall file an affidavit, attached to the

1 original and all copies of the complaint, declaring one of the  
2 following:

3 1. That the affiant has consulted and reviewed the  
4 facts of the case with a health professional who the  
5 affiant reasonably believes: (i) is knowledgeable in the  
6 relevant issues involved in the particular action; (ii)  
7 practices or has practiced within the last 5 ~~6~~ years or  
8 teaches or has taught within the last 5 ~~6~~ years in the same  
9 area of health care or medicine that is at issue in the  
10 particular action; and (iii) meets the expert witness  
11 standards set forth in paragraphs (a) through (d) of  
12 Section 8-2501; is qualified by experience or demonstrated  
13 ~~competence in the subject of the case;~~ that the reviewing  
14 health professional has determined in a written report,  
15 after a review of the medical record and other relevant  
16 material involved in the particular action that there is a  
17 reasonable and meritorious cause for the filing of such  
18 action; and that the affiant has concluded on the basis of  
19 the reviewing health professional's review and  
20 consultation that there is a reasonable and meritorious  
21 cause for filing of such action. A single written report  
22 must be filed to cover each defendant in the action. As to  
23 defendants who are individuals, the ~~If the affidavit is~~  
24 ~~filed as to a defendant who is a physician licensed to~~  
25 ~~treat human ailments without the use of drugs or medicines~~  
26 ~~and without operative surgery, a dentist, a podiatrist, a~~  
27 ~~psychologist, or a naprapath,~~ The written report must be  
28 from a health professional licensed in the same profession,  
29 with the same class of license, as the defendant. For  
30 written reports ~~affidavits~~ filed as to all other  
31 defendants, who are not individuals, the written report  
32 must be from a physician licensed to practice medicine in  
33 all its branches who is qualified by experience with the  
34 standard of care, methods, procedures and treatments

1       relevant to the allegations at issue in the case. In either  
2       event, the written report ~~affidavit~~ must identify the  
3       profession of the reviewing health professional. A copy of  
4       the written report, clearly identifying the plaintiff and  
5       the reasons for the reviewing health professional's  
6       determination that a reasonable and meritorious cause for  
7       the filing of the action exists, must be attached to the  
8       affidavit, but information which would identify the  
9       reviewing health professional may be deleted from the copy  
10      so attached. The report must contain the affirmations set  
11      forth in items (i) through (iii) of this paragraph 1. At  
12      the first Supreme Court Rule 218 case management  
13      conference, the plaintiff shall present to the court the  
14      original signed health professional's report, along with  
15      the health professional's current license number and state  
16      of licensure and curriculum vitae, for an in camera  
17      inspection. The court shall verify whether the report and  
18      affidavit comply with the requirements of this paragraph 1.  
19      The court, in verifying whether the report and affidavit  
20      comply with the requirements of this paragraph 1, shall  
21      determine whether the health professional preparing the  
22      report is qualified and the determination shall be either  
23      in writing or transcribed. If the court finds that the  
24      report, the health professional's current license  
25      information or curriculum vitae, or the affidavit is  
26      deficient, the court may request from the plaintiff all  
27      documents it deems necessary to make its decision and shall  
28      allow for a reasonable opportunity to provide any requested  
29      documents and to amend that report or affidavit; provided,  
30      if the statute of limitations has tolled, the judge may  
31      grant only one extension not exceeding 90 days. The court's  
32      verification as to whether the health professional  
33      preparing the report is qualified shall be issued to all  
34      parties and be made a part of the official record. The

1 original report, the health professional's current license  
2 number and state of licensure and curriculum vitae, and any  
3 documents requested by the court shall remain under seal  
4 and part of the court record. Notwithstanding the other  
5 provisions of this Section, the judge may disclose the name  
6 and address of the reviewing health professional upon a  
7 showing of good cause by the defendant who in good faith  
8 challenges the qualifications of the health professional  
9 based on information available to the defendant. If the  
10 information is disclosed at the trial level, then it shall  
11 be confidential and it shall not be disclosed by the  
12 defendant to a third party.

13 2. That the affiant was unable to obtain a consultation  
14 required by paragraph 1 because a statute of limitations  
15 would impair the action and the consultation required could  
16 not be obtained before the expiration of the statute of  
17 limitations. If an affidavit is executed pursuant to this  
18 paragraph, the affidavit ~~certificate~~ and written report  
19 required by paragraph 1 shall be filed within 90 days after  
20 the filing of the complaint. No additional 90-day  
21 extensions pursuant to this paragraph shall be granted,  
22 except where there has been a withdrawal of the plaintiff's  
23 counsel. The defendant shall be excused from answering or  
24 otherwise pleading until 30 days after being served with an  
25 affidavit and a report ~~a certificate~~ required by paragraph  
26 1.

27 3. That a request has been made by the plaintiff or his  
28 attorney for examination and copying of records pursuant to  
29 Part 20 of Article VIII of this Code and the party required  
30 to comply under those Sections has failed to produce such  
31 records within 60 days of the receipt of the request. If an  
32 affidavit is executed pursuant to this paragraph, the  
33 affidavit ~~certificate~~ and written report required by  
34 paragraph 1 shall be filed within 90 days following receipt

1 of the requested records. All defendants except those whose  
2 failure to comply with Part 20 of Article VIII of this Code  
3 is the basis for an affidavit under this paragraph shall be  
4 excused from answering or otherwise pleading until 30 days  
5 after being served with the affidavit and report  
6 ~~certificate~~ required by paragraph 1.

7 (b) Where an affidavit ~~a certificate~~ and written report are  
8 required pursuant to this Section a separate affidavit  
9 ~~certificate~~ and written report shall be filed as to each  
10 defendant who has been named in the complaint and shall be  
11 filed as to each defendant named at a later time.

12 (c) Where the plaintiff intends to rely on the doctrine of  
13 "res ipsa loquitur", as defined by Section 2-1113 of this Code,  
14 the affidavit ~~certificate~~ and written report must state that,  
15 in the opinion of the reviewing health professional, negligence  
16 has occurred in the course of medical treatment. The affiant  
17 shall certify upon filing of the complaint that he is relying  
18 on the doctrine of "res ipsa loquitur".

19 (d) When the attorney intends to rely on the doctrine of  
20 failure to inform of the consequences of the procedure, the  
21 attorney shall certify upon the filing of the complaint that  
22 the reviewing health professional has, after reviewing the  
23 medical record and other relevant materials involved in the  
24 particular action, concluded that a reasonable health  
25 professional would have informed the patient of the  
26 consequences of the procedure.

27 (e) Allegations and denials in the affidavit, made without  
28 reasonable cause and found to be untrue, shall subject the  
29 party pleading them or his attorney, or both, to the payment of  
30 reasonable expenses, actually incurred by the other party by  
31 reason of the untrue pleading, together with reasonable  
32 attorneys' fees to be summarily taxed by the court upon motion  
33 made within 30 days of the judgment or dismissal. In no event  
34 shall the award for attorneys' fees and expenses exceed those

1 actually paid by the moving party, including the insurer, if  
2 any. In proceedings under this paragraph (e), the moving party  
3 shall have the right to depose and examine any and all  
4 reviewing health professionals who prepared reports used in  
5 conjunction with an affidavit required by this Section.

6 (f) A reviewing health professional who in good faith  
7 prepares a report used in conjunction with an affidavit  
8 required by this Section shall have civil immunity from  
9 liability which otherwise might result from the preparation of  
10 such report.

11 (g) The failure of the plaintiff to file an affidavit and  
12 report in compliance with ~~to file a certificate required by~~  
13 this Section shall be grounds for dismissal under Section  
14 2-619.

15 (h) This Section does not apply to or affect any actions  
16 pending at the time of its effective date, but applies to cases  
17 filed on or after its effective date.

18 (i) This amendatory Act of 1997 does not apply to or  
19 affect any actions pending at the time of its effective date,  
20 but applies to cases filed on or after its effective date.

21 (j) The changes to this Section made by this amendatory Act  
22 of the 94th General Assembly apply to causes of action accruing  
23 on or after its effective date.

24 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

25 (735 ILCS 5/2-1105.01 new)

26 Sec. 2-1105.01. Personal assets protected in healing art  
27 malpractice cases. In all cases, whether tort, contract, or  
28 otherwise, in which the plaintiff seeks damages by reason of  
29 healing art malpractice, a health care professional who  
30 maintains at least a minimum of \$1,000,000 in professional  
31 liability insurance coverage to cover a claim against him or  
32 her is entitled to an exemption of all of his or her assets  
33 from attachment, garnishment, or other form of forfeiture to

1 satisfy any judgment, decision, award, or verdict, unless such  
2 healing art malpractice results from the health care  
3 professional's willful and wanton misconduct. Corporate assets  
4 are subject to attachment for satisfaction of a judgment. For  
5 the purposes of this Section, (i) "health care professional"  
6 includes, without limitation, a physician, advanced practice  
7 nurse, physician assistant, dentist, podiatrist, and physical  
8 therapist and (ii) "asset" includes, without limitation, any  
9 asset, property (real or personal), interest, or other thing of  
10 value, of any kind or character whatsoever that would otherwise  
11 be subject to immediate execution to satisfy a judgment.

12 This Section shall not restrict, impair, or otherwise  
13 affect the amount of damages that may be awarded to the  
14 plaintiff or the amount of any judgment in favor of the  
15 plaintiff. This Section shall not restrict, impair, or  
16 otherwise affect the statutory and common law causes of action  
17 a health care professional or the health care professional's  
18 assignee has against the health care professional's insurer for  
19 the insurer acting in bad faith or vexatiously and without  
20 reasonable cause by failing to settle the action against the  
21 health care professional within the health care professional's  
22 insurance policy limits. The plaintiff shall be required to  
23 prove all the elements of any such cause of action. This  
24 Section shall not reduce or limit the damages that otherwise  
25 would have been recoverable in any such action.

26 This Section applies to all causes of action pending on the  
27 effective date of this amendatory Act of the 94th General  
28 Assembly and to all causes of action filed on or after the  
29 effective date of this amendatory Act of the 94th General  
30 Assembly.

31 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

32 (Text of Section WITHOUT the changes made by P.A. 89-7,  
33 which has been held unconstitutional)

1           Sec. 2-1107.1. Jury instruction in tort actions.

2           (a) In all actions on account of bodily injury or death or  
3 physical damage to property based on negligence, or product  
4 liability based on strict tort liability, the court shall  
5 instruct the jury in writing that the defendant shall be found  
6 not liable if the jury finds that the contributory fault of the  
7 plaintiff is more than 50% of the proximate cause of the injury  
8 or damage for which recovery is sought.

9           (b) In all healing art malpractice actions, the court shall  
10 instruct the jury in writing whether or not any award of  
11 compensatory damages will be taxable under federal or State  
12 income tax law.

13           (c) The changes to this Section made by this amendatory Act  
14 of the 94th General Assembly apply to causes of action filed on  
15 or after its effective date.

16           (Source: P.A. 84-1431.)

17           (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

18           (Text of Section WITHOUT the changes made by P.A. 89-7,  
19 which has been held unconstitutional)

20           Sec. 2-1109. Itemized verdicts.

21           (a) In every case where damages for bodily injury or death  
22 ~~to the person~~ are assessed by the jury the verdict shall be  
23 itemized so as to reflect the monetary distribution, if any,  
24 among economic loss and non-economic loss, ~~if any,~~ and, in  
25 healing art medical malpractice cases, further itemized so as  
26 to reflect the distribution of economic loss by category, such  
27 itemization of economic loss by category to include: (i) ~~(a)~~  
28 amounts intended to compensate for reasonable expenses which  
29 have been incurred, or which will be incurred, for necessary  
30 medical, surgical, x-ray, dental, or other health or  
31 rehabilitative services, drugs, and therapy; (ii) ~~(b)~~ amounts  
32 intended to compensate for lost wages or loss of earning  
33 capacity; and (iii) ~~(c)~~ all other economic losses claimed by

1 the plaintiff or granted by the jury. Each category of economic  
2 loss shall be further itemized into amounts intended to  
3 compensate for losses which have been incurred prior to the  
4 verdict and amounts intended to compensate for future losses  
5 ~~which will be incurred in the future.~~

6 (b) In all actions on account of bodily injury or death  
7 based on negligence, including healing art malpractice  
8 actions, the following terms have the following meanings:

9 "Economic loss" or "economic damages" means all damages  
10 that are tangible, such as damages for past and future medical  
11 expenses, loss of income or earnings, and other property loss.

12 "Non-economic loss" or "non-economic damages" means  
13 damages that are intangible, including, but not limited to,  
14 damages for pain and suffering, disability, disfigurement, and  
15 loss of society.

16 "Compensatory damages" or "actual damages" are the sum of  
17 economic and non-economic damages.

18 (c) Nothing in this Section shall be construed to create a  
19 cause of action.

20 (d) The changes to this Section made by this amendatory Act  
21 of the 94th General Assembly apply to causes of action filed on  
22 or after its effective date.

23 (Source: P.A. 84-7.)

24 (735 ILCS 5/2-1114) (from Ch. 110, par. 2-1114)

25 Sec. 2-1114. Contingent fees for attorneys in medical  
26 malpractice actions.

27 (a) In all medical malpractice actions the total contingent  
28 fee for plaintiff's attorney or attorneys shall not exceed the  
29 following amounts:

30 33 1/3% of the first \$150,000 of the sum recovered;

31 25% of the next \$850,000 of the sum recovered; and

32 20% of any amount recovered over \$1,000,000 of the sum  
33 recovered.

1 (b) For purposes of determining any lump sum contingent  
2 fee, any future damages recoverable by the plaintiff in  
3 periodic installments shall be reduced to a lump sum value.

4 (c) The court may review contingent fee agreements for  
5 fairness. In special circumstances, where an attorney performs  
6 extraordinary services involving more than usual participation  
7 in time and effort the attorney may apply to the court for  
8 approval of additional compensation. Any application for  
9 additional compensation and the court's decision on additional  
10 compensation shall be made part of the record.

11 (d) As used in this Section, "contingent fee basis"  
12 includes any fee arrangement under which the compensation is to  
13 be determined in whole or in part on the result obtained.

14 (e) The changes to this Section made by this amendatory Act  
15 of the 94th General Assembly apply to causes of action filed on  
16 or after its effective date.

17 (Source: P.A. 84-7.)

18 (735 ILCS 5/2-1701) (from Ch. 110, par. 2-1701)

19 Sec. 2-1701. Application. ~~In Subject to the provisions of~~  
20 ~~Section 2-1705, in~~ all medical malpractice actions the  
21 provisions of this Act shall be applicable.

22 (Source: P.A. 84-7.)

23 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

24 (Text of Section WITHOUT the changes made by P.A. 89-7,  
25 which has been held unconstitutional)

26 Sec. 2-1702. Economic/Non-Economic Loss. As used in this  
27 Part, "economic loss" and "non-economic loss" have the same  
28 meanings as in subsection (b) of Section 2-1109. ÷

29 ~~(a) "Economic loss" means all pecuniary harm for which~~  
30 ~~damages are recoverable.~~

31 ~~(b) "Non-economic loss" means loss of consortium and all~~  
32 ~~nonpecuniary harm for which damages are recoverable,~~

1 ~~including, without limitation, damages for pain and suffering,~~  
2 ~~inconvenience, disfigurement, and physical impairment.~~

3 (Source: P.A. 84-7.)

4 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

5 Sec. 2-1704. Healing art malpractice ~~Medical Malpractice~~  
6 ~~Action~~. As used in this Code Part, "healing art medical  
7 malpractice action" means any action, whether in tort, contract  
8 or otherwise, in which the plaintiff seeks damages for injuries  
9 or death by reason of medical, hospital, or other healing art  
10 malpractice including but not limited to medical, hospital,  
11 nursing, dental, or podiatric malpractice. The term "healing  
12 art" shall not include care and treatment by spiritual means  
13 through prayer in accord with the tenets and practices of a  
14 recognized church or religious denomination.

15 (Source: P.A. 84-7.)

16 (735 ILCS 5/2-1704.5 new)

17 Sec. 2-1704.5. Guaranteed payment of future medical  
18 expenses.

19 (a) Either party in a medical malpractice action may elect  
20 to have the payment of the plaintiff's future medical expenses  
21 and costs of life care determined under this Section. The  
22 election must be made not less than 60 days before commencement  
23 of a trial involving issues of damages for such future medical  
24 and life care. If found liable for damages for a plaintiff's  
25 future medical and life care, the defendant shall compensate  
26 the plaintiff for such expenses and costs by purchasing an  
27 annuity as described in this Section that will pay for these  
28 costs and expenses for as long as the plaintiff needs medical  
29 and life care.

30 (b) If a defendant in a medical malpractice action is found  
31 liable for the plaintiff's future medical expenses and costs of  
32 care, the trier of fact, in addition to other appropriate

1 findings, shall make the following findings based on evidence  
2 presented at trial:

3 (1) the current year annual cost of any future medical,  
4 custodial, or life care required by the plaintiff  
5 (including the cost of medical treatment, equipment,  
6 supplies and medication, home nursing care, and  
7 institutional or facility care) as described in the  
8 plaintiff's life care plan determined to be acceptable by  
9 the trier of fact; and

10 (2) the annual composite rate of inflation that should  
11 be applied to the costs specified in item (1).

12 Based upon evidence presented at trial, the trier of fact may  
13 also vary the amount of future costs under this Section from  
14 year to year to account for different annual expenditures,  
15 including the immediate medical and life care needs of the  
16 plaintiff. If the trier of fact determines that the plaintiff  
17 will need future medical and life care for less than the  
18 plaintiff's entire life, the trier of fact shall specify the  
19 number of years such care will be needed, but in no event shall  
20 the payments required under this Section be required for a  
21 period in excess of the plaintiff's life.

22 (c) When an election is made to pay for future medical and  
23 life care costs by purchasing an annuity, the circuit court  
24 shall enter a judgment ordering that such future costs be paid  
25 through the use of an annuity purchased by or on behalf of the  
26 defendant from a company that has itself, or is irrevocably  
27 supported financially by a company that has, at least 2 of the  
28 following 4 ratings: "A+ X" or higher from A.M. Best Company;  
29 "AA-" or higher from Standard & Poor's; "Aa3" or higher from  
30 Moody's; and "AA-" or higher from Fitch. The judgment shall  
31 specify the recipient of the payments, the dollar amount of the  
32 payments, the interval between payments, and the number of  
33 payments or the period of time over which payments shall be  
34 made if the trier of fact determines that such costs will be

1 incurred for less than the plaintiff's entire life. Such  
2 payments shall only be subject to modification with leave of  
3 court pursuant to subsection (d).

4 (d) A plaintiff receiving future payments by means of an  
5 annuity under this Section may seek leave of court to assign or  
6 otherwise transfer the right to receive such payments in  
7 exchange for a negotiated lump sum value of the remaining  
8 future payments or any portion of the remaining future payments  
9 under the annuity to address an unanticipated financial  
10 hardship under such terms as approved by the court.

11 (e) In determining contingent attorneys' fees under  
12 Section 2-1114 of this Code, the sum recovered shall be  
13 determined on the basis of the future value of the annuity  
14 purchased in accordance with this Section.

15 (f) This Section applies to causes of action accruing on or  
16 after the effective date of this amendatory Act of the 94th  
17 General Assembly.

18 (735 ILCS 5/2-1721 new)

19 Sec. 2-1721. Hospitals; apparent or ostensible agency.

20 (a) A hospital shall not be liable for the conduct of a  
21 non-employee member of its medical staff under any claim based  
22 upon apparent or ostensible agency as a matter of law,  
23 provided:

24 (1) the patient was unconscious or unaware of his or  
25 her surroundings upon arrival at the hospital and the  
26 patient's legal representative was not present at the time  
27 to be informed that the non-employee member of its medical  
28 staff was not an agent or employee of the hospital; or

29 (2) the specific member of the hospital's medical staff  
30 personally informed the patient, or his or her legal  
31 representative, if present, before rendering treatment  
32 that he or she was not an agent or employee of the  
33 hospital.

1       (b) A hospital shall not be liable for the conduct of a  
2 non-employee member of its medical staff under any claim based  
3 upon apparent or ostensible agency, provided:

4       (1) the following disclosure is provided to the patient  
5 prior to the provision of the care in question in a  
6 separate document, complete in itself and not part of any  
7 other contract or instrument, which shall contain in upper  
8 case type in printed letters of at least 3/16 inch height a  
9 caption and statement as follows:

10                   "NOTICE OF STATUS OF TREATING PHYSICIANS

11       SOME PHYSICIANS WHO WILL TREAT YOU AT THIS HOSPITAL MAY NOT  
12       BE EMPLOYEES OF THE HOSPITAL AND THE HOSPITAL IS NOT  
13       RESPONSIBLE FOR ANY CONDUCT OF ANY NON-EMPLOYEE PHYSICIANS  
14       ON THE BASIS THAT THEY ARE HOSPITAL AGENTS OR EMPLOYEES";

15                   and

16       (2) if the patient is asked to sign the disclosure, the  
17 disclosure shall contain immediately above the signature  
18 lines, in upper case bold type printed letters of at least  
19 3/16 inch height, a statement that the patient cannot be  
20 required to sign the disclosure in order to receive  
21 treatment; and

22       (3) the patient was not required to sign the disclosure  
23 in order to receive treatment; and

24       (4) such disclosure is provided in a reasonable and  
25 meaningful manner. In determining if a disclosure  
26 satisfies the requirements of this item (4), the trier of  
27 fact shall consider only the following factors:

28                   (A) Whether the patient knowingly and voluntarily  
29 signed the disclosure.

30                   (B) Whether the hospital provided an opportunity  
31 for the patient to ask questions.

32                   (C) Whether the patient's questions about this

1           disclosure were answered and the contents of the  
2           answers.

3           (D) Whether such disclosure was provided orally  
4           and in writing.

5           (E) Whether a reasonable person under the  
6           circumstances should have understood the disclosure,  
7           taking into account any and all representations made by  
8           or on behalf of the hospital.

9           As used in this subsection (b), "patient" refers to the  
10          patient or any legal representative of the patient.

11          (c) Nothing in this Section shall be construed as imposing  
12          an obligation on a hospital to provide any particular health  
13          care service, treatment, or procedure to a patient.

14          (d) Nothing in this Section precludes any other defense to  
15          a claim of apparent or ostensible agency.

16          (e) This Section applies to causes of action accruing on or  
17          after the effective date of this amendatory Act of the 94th  
18          General Assembly.

19           (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

20           Sec. 8-1901. Admission of liability - Effect.

21           (a) The providing of, or payment for, medical, surgical,  
22           hospital, or rehabilitation services, facilities, or equipment  
23           by or on behalf of any person, or the offer to provide, or pay  
24           for, any one or more of the foregoing, shall not be construed  
25           as an admission of any liability by such person or persons.  
26           Testimony, writings, records, reports or information with  
27           respect to the foregoing shall not be admissible in evidence as  
28           an admission of any liability in any action of any kind in any  
29           court or before any commission, administrative agency, or other  
30           tribunal in this State, except at the instance of the person or  
31           persons so making any such provision, payment or offer.

32           (b) Any expression of grief, apology, or explanation  
33           provided by a health care provider, including, but not limited

1 to, a statement that the health care provider is "sorry" for  
2 the outcome to a patient, the patient's family, or the  
3 patient's legal representative about an inadequate or  
4 unanticipated treatment or care outcome that is provided within  
5 72 hours of when the provider knew or should have known of the  
6 potential cause of such outcome shall not be admissible as  
7 evidence in any action of any kind in any court or before any  
8 tribunal, board, agency, or person. The disclosure of any such  
9 information, whether proper, or improper, shall not waive or  
10 have any effect upon its confidentiality or inadmissibility. As  
11 used in this Section, a "health care provider" is any hospital,  
12 nursing home or other facility, or employee or agent thereof, a  
13 physician, or other licensed health care professional. Nothing  
14 in this Section precludes the discovery or admissibility of any  
15 other facts regarding the patient's treatment or outcome as  
16 otherwise permitted by law.

17 (c) The changes to this Section made by this amendatory Act  
18 of the 94th General Assembly apply to causes of action accruing  
19 on or after its effective date.

20 (Source: P.A. 82-280.)

21 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

22 (Text of Section WITHOUT the changes made by P.A. 89-7,  
23 which has been held unconstitutional)

24 Sec. 8-2501. Expert Witness Standards. In any case in which  
25 the standard of care applicable to ~~given by~~ a medical  
26 professional profession is at issue, the court shall apply the  
27 following standards to determine if a witness qualifies as an  
28 expert witness and can testify on the issue of the appropriate  
29 standard of care.

30 (a) Whether the witness is board certified or board  
31 eligible, or has completed a residency, in the same or  
32 substantially similar medical specialties as the defendant and  
33 is otherwise qualified by significant experience with the

1 standard of care, methods, procedures, and treatments relevant  
2 to the allegations against the defendant ~~Relationship of the~~  
3 ~~medical specialties of the witness to the medical problem or~~  
4 ~~problems and the type of treatment administered in the case;~~

5 (b) Whether the witness has devoted a majority ~~substantial~~  
6 ~~portion~~ of his or her work time to the practice of medicine,  
7 teaching or University based research in relation to the  
8 medical care and type of treatment at issue which gave rise to  
9 the medical problem of which the plaintiff complains;

10 (c) whether the witness is licensed in the same profession  
11 with the same class of license as the defendant if the  
12 defendant is an individual; and

13 (d) whether, in the case against a nonspecialist, the  
14 witness can demonstrate a sufficient familiarity with the  
15 standard of care practiced in this State.

16 An expert shall provide evidence of active practice,  
17 teaching, or engaging in university-based research. If  
18 retired, an expert must provide evidence of attendance and  
19 completion of continuing education courses for 3 years previous  
20 to giving testimony. An expert who has not actively practiced,  
21 taught, or been engaged in university-based research, or any  
22 combination thereof, during the preceding 5 years may not be  
23 qualified as an expert witness.

24 The changes to this Section made by this amendatory Act of  
25 the 94th General Assembly apply to causes of action filed on or  
26 after its effective date.

27 (Source: P.A. 84-7.)

28 (735 ILCS 5/2-1705 rep.) (from Ch. 110, par. 2-1705)

29 (735 ILCS 5/2-1706 rep.) (from Ch. 110, par. 2-1706)

30 (735 ILCS 5/2-1707 rep.) (from Ch. 110, par. 2-1707)

31 (735 ILCS 5/2-1708 rep.) (from Ch. 110, par. 2-1708)

32 (735 ILCS 5/2-1709 rep.) (from Ch. 110, par. 2-1709)

33 (735 ILCS 5/2-1710 rep.) (from Ch. 110, par. 2-1710)

1 (735 ILCS 5/2-1711 rep.) (from Ch. 110, par. 2-1711)

2 (735 ILCS 5/2-1712 rep.) (from Ch. 110, par. 2-1712)

3 (735 ILCS 5/2-1713 rep.) (from Ch. 110, par. 2-1713)

4 (735 ILCS 5/2-1714 rep.) (from Ch. 110, par. 2-1714)

5 (735 ILCS 5/2-1715 rep.) (from Ch. 110, par. 2-1715)

6 (735 ILCS 5/2-1716 rep.) (from Ch. 110, par. 2-1716)

7 (735 ILCS 5/2-1717 rep.) (from Ch. 110, par. 2-1717)

8 (735 ILCS 5/2-1718 rep.) (from Ch. 110, par. 2-1718)

9 (735 ILCS 5/2-1719 rep.) (from Ch. 110, par. 2-1719)

10 Section 5-15. The Code of Civil Procedure is amended by  
11 repealing Sections 2-1705, 2-1706, 2-1707, 2-1708, 2-1709,  
12 2-1710, 2-1711, 2-1712, 2-1713, 2-1714, 2-1715, 2-1716,  
13 2-1717, 2-1718, and 2-1719.

14 Section 5-20. The Good Samaritan Act is amended by changing  
15 Sections 25 and 30 as follows:

16 (745 ILCS 49/25)

17 Sec. 25. Physicians; exemption from civil liability for  
18 emergency care. Any person licensed under the Medical Practice  
19 Act of 1987 or any person licensed to practice the treatment of  
20 human ailments in any other state or territory of the United  
21 States who, in good faith, provides emergency care without fee  
22 to a person, shall not, as a result of his or her acts or  
23 omissions, except willful or wanton misconduct on the part of  
24 the person, in providing the care, be liable for civil damages.  
25 This good faith immunity applies to physicians licensed to  
26 practice medicine in all its branches, including retired  
27 physicians providing care without fee to a person pursuant to  
28 an emergency department on call list.

29 The changes to this Section made by this amendatory Act of  
30 the 94th General Assembly apply to causes of action accruing on  
31 or after its effective date.

32 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

1 (745 ILCS 49/30)

2 Sec. 30. Free medical clinic; exemption from civil  
3 liability for services performed without compensation.

4 (a) A person licensed under the Medical Practice Act of  
5 1987, a person licensed to practice the treatment of human  
6 ailments in any other state or territory of the United States,  
7 or a health care professional, including but not limited to an  
8 advanced practice nurse, retired physician, physician  
9 assistant, nurse, pharmacist, physical therapist, podiatrist,  
10 or social worker licensed in this State or any other state or  
11 territory of the United States, who, in good faith, provides  
12 medical treatment, diagnosis, or advice as a part of the  
13 services of an established free medical clinic providing care,  
14 including but not limited to home visits, without charge to  
15 ~~medically indigent~~ patients which is limited to care that does  
16 not require the services of a licensed hospital or ambulatory  
17 surgical treatment center and who receives no fee or  
18 compensation from that source shall not be liable for civil  
19 damages as a result of his or her acts or omissions in  
20 providing that medical treatment, except for willful or wanton  
21 misconduct.

22 (b) For purposes of this Section, a "free medical clinic"  
23 is an organized community based program providing medical care  
24 without charge to individuals ~~unable to pay for it,~~ at which  
25 the care provided does not include ~~the use of general~~  
26 ~~anesthesia or require~~ an overnight stay in a health-care  
27 facility.

28 (c) The provisions of subsection (a) of this Section do not  
29 apply to a particular case unless the free medical clinic has  
30 posted in a conspicuous place on its premises an explanation of  
31 the exemption from civil liability provided herein.

32 (d) The immunity from civil damages provided under  
33 subsection (a) also applies to physicians, retired physicians,

1 hospitals, and other health care providers that provide further  
2 medical treatment, diagnosis, or advice, including but not  
3 limited to hospitalization, office visits, and home visits, to  
4 a patient upon referral from an established free medical clinic  
5 without fee or compensation.

6 (d-5) A free medical clinic may receive reimbursement from  
7 the Illinois Department of Public Aid, provided any  
8 reimbursements shall be used only to pay overhead expenses of  
9 operating the free medical clinic and may not be used, in whole  
10 or in part, to provide a fee or other compensation to any  
11 person licensed under the Medical Practice Act of 1987 or any  
12 other health care professional who is receiving an exemption  
13 under this Section. Any health care professional receiving an  
14 exemption under this Section may not receive any fee or other  
15 compensation in connection with any services provided to, or  
16 any ownership interest in, the clinic. Medical care shall not  
17 include an overnight stay in a health care facility.

18 (e) Nothing in this Section prohibits a free medical clinic  
19 from accepting voluntary contributions for medical services  
20 provided to a patient who has acknowledged his or her ability  
21 and willingness to pay a portion of the value of the medical  
22 services provided.

23 (f) Any voluntary contribution collected for providing  
24 care at a free medical clinic shall be used only to pay  
25 overhead expenses of operating the clinic. No portion of any  
26 moneys collected shall be used to provide a fee or other  
27 compensation to any person licensed under Medical Practice Act  
28 of 1987.

29 (g) The changes to this Section made by this amendatory Act  
30 of the 94th General Assembly apply to causes of action accruing  
31 on or after its effective date.

32 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

1           Section 10-1. Short title. This Article 10 may be cited as  
2 the Sorry Works! Pilot Program Act, and references in this  
3 Article to "this Act" mean this Article.

4           Section 10-5. Sorry Works! pilot program. The Sorry Works!  
5 pilot program is established. During the first year of the  
6 program's operation, participation in the program shall be open  
7 to one hospital. Hospitals may participate only with the  
8 approval of the hospital administration and the hospital's  
9 organized medical staff. During the second year of the  
10 program's operation, participation in the program shall be open  
11 to one additional hospital.

12           The first participating hospital selected by the committee  
13 established under Section 10-10 shall be located in a county  
14 with a population greater than 200,000 that is contiguous with  
15 the Mississippi River.

16           Under the program, participating hospitals and physicians  
17 shall promptly acknowledge and apologize for mistakes in  
18 patient care and promptly offer fair settlements.  
19 Participating hospitals shall encourage patients and families  
20 to retain their own legal counsel to ensure that their rights  
21 are protected and to help facilitate negotiations for fair  
22 settlements. Participating hospitals shall report to the  
23 committee their total costs for healing art malpractice  
24 verdicts, settlements, and defense litigation for the  
25 preceding 5 years to enable the committee to determine average  
26 costs for that hospital during that period. The committee shall  
27 develop standards and protocols to compare costs for cases  
28 handled by traditional means and cases handled under the Sorry  
29 Works! protocol.

30           If the committee determines that the total costs of cases  
31 handled under the Sorry Works! protocol by a hospital  
32 participating in the program exceed the total costs that would

1 have been incurred if the cases had been handled by traditional  
2 means, the hospital may apply for a grant from the Sorry Works!  
3 Fund, a special fund that is created in the State Treasury, for  
4 an amount, as determined by the committee, by which the total  
5 costs exceed the total costs that would have been incurred if  
6 the cases had been handled by traditional means; however, the  
7 total of all grants from the Fund for cases in any single  
8 participating hospital in any year may not exceed the amount in  
9 the Fund or \$2,000,000, whichever is less. All grants shall be  
10 subject to appropriation. Moneys in the Fund shall consist of  
11 funds transferred into the Fund or otherwise made available  
12 from any source.

13 Section 10-10. Establishment of committee.

14 (a) A committee is established to develop, oversee, and  
15 implement the Sorry Works! pilot program. The committee shall  
16 have 9 members, each of whom shall be a voting member. Six  
17 members of the committee shall constitute a quorum. The  
18 committee shall be comprised as follows:

19 (1) The President of the Senate, the Minority Leader of  
20 the Senate, the Speaker of the House of Representatives,  
21 and the Minority Leader of the House of Representatives  
22 shall each appoint 2 members.

23 (2) The Secretary of Financial and Professional  
24 Regulation or his or her designee.

25 (b) The committee shall establish criteria for the program,  
26 including but not limited to: selection of hospitals,  
27 physicians, and insurers to participate in the program; and  
28 creation of a subcommittee to review cases from hospitals and  
29 determine whether hospitals, physicians, and insurers are  
30 entitled to compensation under the program.

31 (c) The committee shall communicate with hospitals,  
32 physicians, and insurers that are interested in participating  
33 in the program. The committee shall make final decisions as to

1 which applicants are accepted for the program.

2 (d) The committee shall report to the Governor and the  
3 General Assembly annually.

4 (e) The committee shall publish data regarding the program.

5 (f) Committee members shall receive no compensation for the  
6 performance of their duties as members, but each member shall  
7 be paid necessary expenses while engaged in the performance of  
8 those duties.

9 Section 10-15. Termination of program.

10 (a) The program may be terminated at any time if the  
11 committee, by a vote of two-thirds of its members, votes to  
12 terminate the program.

13 (b) If the program is not terminated under subsection (a),  
14 the program shall terminate after its second year of operation.

15 Section 10-905. The Open Meetings Act is amended by  
16 changing Section 2 as follows:

17 (5 ILCS 120/2) (from Ch. 102, par. 42)

18 Sec. 2. Open meetings.

19 (a) Openness required. All meetings of public bodies shall  
20 be open to the public unless excepted in subsection (c) and  
21 closed in accordance with Section 2a.

22 (b) Construction of exceptions. The exceptions contained  
23 in subsection (c) are in derogation of the requirement that  
24 public bodies meet in the open, and therefore, the exceptions  
25 are to be strictly construed, extending only to subjects  
26 clearly within their scope. The exceptions authorize but do not  
27 require the holding of a closed meeting to discuss a subject  
28 included within an enumerated exception.

29 (c) Exceptions. A public body may hold closed meetings to  
30 consider the following subjects:

31 (1) The appointment, employment, compensation,

1 discipline, performance, or dismissal of specific  
2 employees of the public body or legal counsel for the  
3 public body, including hearing testimony on a complaint  
4 lodged against an employee of the public body or against  
5 legal counsel for the public body to determine its  
6 validity.

7 (2) Collective negotiating matters between the public  
8 body and its employees or their representatives, or  
9 deliberations concerning salary schedules for one or more  
10 classes of employees.

11 (3) The selection of a person to fill a public office,  
12 as defined in this Act, including a vacancy in a public  
13 office, when the public body is given power to appoint  
14 under law or ordinance, or the discipline, performance or  
15 removal of the occupant of a public office, when the public  
16 body is given power to remove the occupant under law or  
17 ordinance.

18 (4) Evidence or testimony presented in open hearing, or  
19 in closed hearing where specifically authorized by law, to  
20 a quasi-adjudicative body, as defined in this Act, provided  
21 that the body prepares and makes available for public  
22 inspection a written decision setting forth its  
23 determinative reasoning.

24 (5) The purchase or lease of real property for the use  
25 of the public body, including meetings held for the purpose  
26 of discussing whether a particular parcel should be  
27 acquired.

28 (6) The setting of a price for sale or lease of  
29 property owned by the public body.

30 (7) The sale or purchase of securities, investments, or  
31 investment contracts.

32 (8) Security procedures and the use of personnel and  
33 equipment to respond to an actual, a threatened, or a  
34 reasonably potential danger to the safety of employees,

1 students, staff, the public, or public property.

2 (9) Student disciplinary cases.

3 (10) The placement of individual students in special  
4 education programs and other matters relating to  
5 individual students.

6 (11) Litigation, when an action against, affecting or  
7 on behalf of the particular public body has been filed and  
8 is pending before a court or administrative tribunal, or  
9 when the public body finds that an action is probable or  
10 imminent, in which case the basis for the finding shall be  
11 recorded and entered into the minutes of the closed  
12 meeting.

13 (12) The establishment of reserves or settlement of  
14 claims as provided in the Local Governmental and  
15 Governmental Employees Tort Immunity Act, if otherwise the  
16 disposition of a claim or potential claim might be  
17 prejudiced, or the review or discussion of claims, loss or  
18 risk management information, records, data, advice or  
19 communications from or with respect to any insurer of the  
20 public body or any intergovernmental risk management  
21 association or self insurance pool of which the public body  
22 is a member.

23 (13) Conciliation of complaints of discrimination in  
24 the sale or rental of housing, when closed meetings are  
25 authorized by the law or ordinance prescribing fair housing  
26 practices and creating a commission or administrative  
27 agency for their enforcement.

28 (14) Informant sources, the hiring or assignment of  
29 undercover personnel or equipment, or ongoing, prior or  
30 future criminal investigations, when discussed by a public  
31 body with criminal investigatory responsibilities.

32 (15) Professional ethics or performance when  
33 considered by an advisory body appointed to advise a  
34 licensing or regulatory agency on matters germane to the

1 advisory body's field of competence.

2 (16) Self evaluation, practices and procedures or  
3 professional ethics, when meeting with a representative of  
4 a statewide association of which the public body is a  
5 member.

6 (17) The recruitment, credentialing, discipline or  
7 formal peer review of physicians or other health care  
8 professionals for a hospital, or other institution  
9 providing medical care, that is operated by the public  
10 body.

11 (18) Deliberations for decisions of the Prisoner  
12 Review Board.

13 (19) Review or discussion of applications received  
14 under the Experimental Organ Transplantation Procedures  
15 Act.

16 (20) The classification and discussion of matters  
17 classified as confidential or continued confidential by  
18 the State Employees Suggestion Award Board.

19 (21) Discussion of minutes of meetings lawfully closed  
20 under this Act, whether for purposes of approval by the  
21 body of the minutes or semi-annual review of the minutes as  
22 mandated by Section 2.06.

23 (22) Deliberations for decisions of the State  
24 Emergency Medical Services Disciplinary Review Board.

25 (23) The operation by a municipality of a municipal  
26 utility or the operation of a municipal power agency or  
27 municipal natural gas agency when the discussion involves  
28 (i) contracts relating to the purchase, sale, or delivery  
29 of electricity or natural gas or (ii) the results or  
30 conclusions of load forecast studies.

31 (24) Meetings of a residential health care facility  
32 resident sexual assault and death review team or the  
33 Residential Health Care Facility Resident Sexual Assault  
34 and Death Review Teams Executive Council under the

1 Residential Health Care Facility Resident Sexual Assault  
2 and Death Review Team Act.

3 (25) The establishment of reserves administration,  
4 adjudication, or settlement of claims as provided in  
5 Article XLV of the Illinois Insurance Code if otherwise the  
6 disposition of a claim or potential claim might be  
7 prejudiced, or the review or discussion of claims, loss or  
8 risk management information, records, data, advice or  
9 communications from or with respect to any self-insurance  
10 trust administration or adjudication of any claim, or  
11 insurer created by the public body.

12 (d) Definitions. For purposes of this Section:

13 "Employee" means a person employed by a public body whose  
14 relationship with the public body constitutes an  
15 employer-employee relationship under the usual common law  
16 rules, and who is not an independent contractor.

17 "Public office" means a position created by or under the  
18 Constitution or laws of this State, the occupant of which is  
19 charged with the exercise of some portion of the sovereign  
20 power of this State. The term "public office" shall include  
21 members of the public body, but it shall not include  
22 organizational positions filled by members thereof, whether  
23 established by law or by a public body itself, that exist to  
24 assist the body in the conduct of its business.

25 "Quasi-adjudicative body" means an administrative body  
26 charged by law or ordinance with the responsibility to conduct  
27 hearings, receive evidence or testimony and make  
28 determinations based thereon, but does not include local  
29 electoral boards when such bodies are considering petition  
30 challenges.

31 (e) Final action. No final action may be taken at a closed  
32 meeting. Final action shall be preceded by a public recital of  
33 the nature of the matter being considered and other information  
34 that will inform the public of the business being conducted.

1 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,  
2 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03)

3 Section 10-910. The State Finance Act is amended by adding  
4 Section 5.640 as follows:

5 (30 ILCS 105/5.640 new)

6 Sec. 5.640. The Sorry Works! Fund.

7 Section 10-915. The Counties Code is amended by changing  
8 Section 5-1005 and by adding Division 6-34 as follows:

9 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

10 Sec. 5-1005. Powers. Each county shall have power:

11 1. To purchase and hold the real and personal estate  
12 necessary for the uses of the county, and to purchase and hold,  
13 for the benefit of the county, real estate sold by virtue of  
14 judicial proceedings in which the county is plaintiff.

15 2. To sell and convey or lease any real or personal estate  
16 owned by the county.

17 3. To make all contracts and do all other acts in relation  
18 to the property and concerns of the county necessary to the  
19 exercise of its corporate powers.

20 4. To take all necessary measures and institute proceedings  
21 to enforce all laws for the prevention of cruelty to animals.

22 5. To purchase and hold or lease real estate upon which may  
23 be erected and maintained buildings to be utilized for purposes  
24 of agricultural experiments and to purchase, hold and use  
25 personal property for the care and maintenance of such real  
26 estate in connection with such experimental purposes.

27 6. To cause to be erected, or otherwise provided, suitable  
28 buildings for, and maintain a county hospital and necessary  
29 branch hospitals and/or a county sheltered care home or county  
30 nursing home for the care of such sick, chronically ill or

1 infirm persons as may by law be proper charges upon the county,  
2 or upon other governmental units, and to provide for the  
3 management of the same. The county board may establish rates to  
4 be paid by persons seeking care and treatment in such hospital  
5 or home in accordance with their financial ability to meet such  
6 charges, either personally or through a hospital plan or  
7 hospital insurance, and the rates to be paid by governmental  
8 units, including the State, for the care of sick, chronically  
9 ill or infirm persons admitted therein upon the request of such  
10 governmental units. Any hospital maintained by a county under  
11 this Section is authorized to provide any service and enter  
12 into any contract or other arrangement not prohibited for a  
13 hospital that is licensed under the Hospital Licensing Act,  
14 incorporated under the General Not-For-Profit Corporation Act,  
15 and exempt from taxation under paragraph (3) of subsection (c)  
16 of Section 501 of the Internal Revenue Code.

17 7. To contribute such sums of money toward erecting,  
18 building, maintaining, and supporting any non-sectarian public  
19 hospital located within its limits as the county board of the  
20 county shall deem proper.

21 8. To purchase and hold real estate for the preservation of  
22 forests, prairies and other natural areas and to maintain and  
23 regulate the use thereof.

24 9. To purchase and hold real estate for the purpose of  
25 preserving historical spots in the county, to restore, maintain  
26 and regulate the use thereof and to donate any historical spot  
27 to the State.

28 10. To appropriate funds from the county treasury to be  
29 used in any manner to be determined by the board for the  
30 suppression, eradication and control of tuberculosis among  
31 domestic cattle in such county.

32 11. To take all necessary measures to prevent forest fires  
33 and encourage the maintenance and planting of trees and the  
34 preservation of forests.

1           12. To authorize the closing on Saturday mornings of all  
2 offices of all county officers at the county seat of each  
3 county, and to otherwise regulate and fix the days and the  
4 hours of opening and closing of such offices, except when the  
5 days and the hours of opening and closing of the office of any  
6 county officer are otherwise fixed by law; but the power herein  
7 conferred shall not apply to the office of State's Attorney and  
8 the offices of judges and clerks of courts and, in counties of  
9 500,000 or more population, the offices of county clerk.

10           13. To provide for the conservation, preservation and  
11 propagation of insectivorous birds through the expenditure of  
12 funds provided for such purpose.

13           14. To appropriate funds from the county treasury and  
14 expend the same for care and treatment of tuberculosis  
15 residents.

16           15. In counties having less than 1,000,000 inhabitants, to  
17 take all necessary or proper steps for the extermination of  
18 mosquitoes, flies or other insects within the county.

19           16. To install an adequate system of accounts and financial  
20 records in the offices and divisions of the county, suitable to  
21 the needs of the office and in accordance with generally  
22 accepted principles of accounting for governmental bodies,  
23 which system may include such reports as the county board may  
24 determine.

25           17. To purchase and hold real estate for the construction  
26 and maintenance of motor vehicle parking facilities for persons  
27 using county buildings, but the purchase and use of such real  
28 estate shall not be for revenue producing purposes.

29           18. To acquire and hold title to real property located  
30 within the county, or partly within and partly outside the  
31 county by dedication, purchase, gift, legacy or lease, for park  
32 and recreational purposes and to charge reasonable fees for the  
33 use of or admission to any such park or recreational area and  
34 to provide police protection for such park or recreational

1 area. Personnel employed to provide such police protection  
2 shall be conservators of the peace within such park or  
3 recreational area and shall have power to make arrests on view  
4 of the offense or upon warrants for violation of any of the  
5 ordinances governing such park or recreational area or for any  
6 breach of the peace in the same manner as the police in  
7 municipalities organized and existing under the general laws of  
8 the State. All such real property outside the county shall be  
9 contiguous to the county and within the boundaries of the State  
10 of Illinois.

11 19. To appropriate funds from the county treasury to be  
12 used to provide supportive social services designed to prevent  
13 the unnecessary institutionalization of elderly residents, or,  
14 for operation of, and equipment for, senior citizen centers  
15 providing social services to elderly residents.

16 20. To appropriate funds from the county treasury and loan  
17 such funds to a county water commission created under the  
18 "Water Commission Act", approved June 30, 1984, as now or  
19 hereafter amended, in such amounts and upon such terms as the  
20 county may determine or the county and the commission may  
21 agree. The county shall not under any circumstances be  
22 obligated to make such loans. The county shall not be required  
23 to charge interest on any such loans.

24 21. To establish an independent entity to administer a  
25 medical care risk retention trust program, to contribute such  
26 sums of money to the risk retention trust program as the county  
27 board of the county shall deem proper to operate the medical  
28 care risk retention trust program, to establish uniform  
29 eligibility requirements for participation in the risk  
30 retention trust program, to appoint an administrator of the  
31 risk retention trust program, to charge premiums, to establish  
32 a billing procedure to collect premiums, and to ensure timely  
33 administration and adjudication of claims under the program. A  
34 single medical care risk retention trust program may be

1 established jointly by more than one county, in accordance with  
2 an agreement between the participating counties, if at least  
3 one of the participating counties has a population of 200,000  
4 or more according to the most recent federal decennial census.

5 All contracts for the purchase of coal under this Section  
6 shall be subject to the provisions of "An Act concerning the  
7 use of Illinois mined coal in certain plants and institutions",  
8 filed July 13, 1937, as amended.

9 (Source: P.A. 86-962; 86-1028.)

10 (55 ILCS 5/Div. 6-34 heading new)

11 Division 6-34. Funding for health care financing programs

12 (55 ILCS 5/6-34001 new)

13 Sec. 6-34001. Authorization. The county board of any county  
14 with a population of 200,000 or more according to the most  
15 recent federal decennial census (and a county with a population  
16 of less than 200,000 according to the most recent federal  
17 decennial census if that county is participating in a single  
18 trust program with one or more other counties in accordance  
19 with the requirements of paragraph (21) of Section 5-1005 of  
20 this Code) may, upon finding such action necessary for  
21 protection of the public health, safety, and welfare, incur an  
22 indebtedness by the establishment of lines or letters of credit  
23 or issue general obligation or revenue bonds for the purpose of  
24 ensuring the availability of and improving hospital, medical,  
25 and health services as authorized under paragraph (21) of  
26 Section 5-1005 of this Code.

27 (55 ILCS 5/6-34002 new)

28 Sec. 6-34002. Bonds. The bonds authorized in Section  
29 6-34001 shall be issued in such denominations, be for such term  
30 or terms, and bear interest at such rate as may be specified in  
31 the resolution of the county board authorizing the issuance of

1 those bonds.

2 Section 10-920. The Illinois Insurance Code is amended by  
3 adding Article XLV as follows:

4 (215 ILCS 5/Art. XLV heading new)

5 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS  
6 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

7 (215 ILCS 5/1501 new)

8 Sec. 1501. Scope of Article. This Article applies only to  
9 trusts sponsored by counties and organized under this Article  
10 to provide medical malpractice insurance authorized under  
11 paragraph (21) of Section 5-1005 of the Counties Code for  
12 physicians and health care professionals providing medical  
13 care and health care within the county's limits. In the case of  
14 a single trust sponsored and organized by more than one county  
15 in accordance with the requirements of paragraph (21) of  
16 Section 5-1005 of the Counties Code, the powers and duties of a  
17 county under this Article shall be exercised jointly by the  
18 counties participating in the trust program in accordance with  
19 the agreement between the counties.

20 (215 ILCS 5/1502 new)

21 Sec. 1502. Definitions. As used in this Article:

22 "Risk retention trust" or "trust" means a risk retention  
23 trust created under this Article.

24 "Trust sponsor" means a county that has created a risk  
25 retention trust.

26 "Pool retention fund" means a separate fund maintained for  
27 payment of first dollar claims, up to a specified amount per  
28 claim ("specific retention") and up to an aggregate amount for  
29 a 12-month period ("aggregate retention").

30 "Contingency reserve fund" means a separate fund

1 maintained for payment of claims in excess of the pool  
2 retention fund amount.

3 "Coverage grant" means the document describing specific  
4 coverages and terms of coverage that are provided by a risk  
5 retention trust created under this Article.

6 "Licensed service company" means an entity licensed by the  
7 Department to perform claims adjusting, loss control, and data  
8 processing.

9 (215 ILCS 5/1503 new)

10 Sec. 1503. Name. The corporate name of any risk retention  
11 trust shall not be the same as or deceptively similar to the  
12 name of any domestic insurance company or of any foreign or  
13 alien insurance company authorized to transact business in this  
14 State.

15 (215 ILCS 5/1504 new)

16 Sec. 1504. Principal office place of business. The  
17 principal office of any risk retention trust shall be located  
18 in this State.

19 (215 ILCS 5/1505 new)

20 Sec. 1505. Creation.

21 (1) Any county with a population of 200,000 or more  
22 according to the most recent federal decennial census may  
23 create a risk retention trust for the pooling of risks to  
24 provide professional liability coverage authorized under  
25 paragraph (21) of Section 5-1005 of the Counties Code for its  
26 physicians and health care professionals providing medical  
27 care and related health care within the county's limits. A  
28 single risk retention trust may also be created jointly by more  
29 than one county in accordance with the requirements of  
30 paragraph (21) of Section 5-1005 of the Counties Code. A trust  
31 shall be administered by at least 3 trustees who may be

1 individuals or corporate trustees and are appointed by the  
2 trust sponsor and who represent physicians who have agreed in  
3 writing to participate in the trust.

4 (2) The trustees shall appoint a qualified licensed  
5 administrator who shall administer the affairs of the risk  
6 retention trust.

7 (3) The trustees shall retain a licensed service company to  
8 perform claims adjusting, loss control, and data processing and  
9 any other delegated administrative duties.

10 (4) The trust sponsor, the trustees, and the trust  
11 administrator shall be fiduciaries of the trust.

12 (5) A trust shall be consummated by a written trust  
13 agreement and shall be subject to the laws of this State  
14 governing the creation and operation of trusts, to the extent  
15 not inconsistent with this Article.

16 (215 ILCS 5/1506 new)

17 Sec. 1506. Participation.

18 (1) A physician or health care professional providing  
19 medical care and related health care within the county's limits  
20 may participate in a risk retention trust if the physician or  
21 health care professional:

22 (a) meets the underwriting standards for acceptance  
23 into the trust;

24 (b) files a written application for coverage, agreeing  
25 to meet all of the membership conditions of the trust;

26 (c) provides medical care and related health care in  
27 the county sponsoring the trust;

28 (d) agrees to meet the ongoing loss control provisions  
29 and risk pooling arrangements set forth by the trust;

30 (e) pays premium contributions on a timely basis as  
31 required; and

32 (f) pays predetermined annual required contributions  
33 into the contingency reserve fund.

1       (2) A physician or health care professional accepted for  
2 trust membership and participating in the trust is liable for  
3 payment to the trust of the amount of his or her annual premium  
4 contribution and his or her annual predetermined contingency  
5 reserve fund contribution.

6       (215 ILCS 5/1507 new)

7       Sec. 1507. Coverage grants; payment of claims.

8       (1) A risk retention trust may not issue coverage grants  
9 until it has established a contingency reserve fund in an  
10 amount deemed appropriate by the trust and filed with the  
11 Department of Financial and Professional Regulation. A risk  
12 retention trust must have and at all times maintain a pool  
13 retention fund or a line or letter of credit at least equal to  
14 its unpaid liabilities as determined by an independent actuary.

15       (2) Every coverage grant issued or delivered in this State  
16 by a risk retention trust shall provide for the extent of the  
17 liability of trust members to the extent that funds are needed  
18 to pay a member's share of the depleted contingency reserve  
19 fund needed to maintain the reserves required by this Section.

20       (3) All claims shall be paid first from the pool retention  
21 fund. If that fund becomes depleted, any additional claims  
22 shall be paid from the contingency reserve fund.

23       (215 ILCS 5/1508 new)

24       Sec. 1508. Applicable Illinois Insurance Code provisions.  
25 Other than this Article, only Sections 155.19, 155.20, and  
26 155.25 and subsections (a) through (c) of Section 155.18 of  
27 this Code shall apply to county risk retention trusts. The  
28 Secretary shall advise the county board of any determinations  
29 made pursuant to subsection (b) of Section 155.18 of this Code.

30       (215 ILCS 5/1509 new)

31       Sec. 1509. Authorized investments. In addition to other

1 investments authorized by law, a risk retention trust with  
2 assets of at least \$5,000,000 may invest in any combination of  
3 the following:

4 (1) the common stocks listed on a recognized exchange  
5 or market;

6 (2) stock and convertible debt investments, or  
7 investment grade corporate bonds, in or issued by any  
8 corporation, the book value of which may not exceed 5% of  
9 the total intergovernmental risk management entity's  
10 investment account at book value in which those securities  
11 are held, determined as of the date of the investment,  
12 provided that investments in the stock of any one  
13 corporation may not exceed 5% of the total outstanding  
14 stock of the corporation and that the investments in the  
15 convertible debt of any one corporation may not exceed 5%  
16 of the total amount of such debt that may be outstanding;

17 (3) the straight preferred stocks or convertible  
18 preferred stocks and convertible debt securities issued or  
19 guaranteed by a corporation whose common stock is listed on  
20 a recognized exchange or market;

21 (4) mutual funds or commingled funds that meet the  
22 following requirements:

23 (A) the mutual fund or commingled fund is managed  
24 by an investment company as defined in and registered  
25 under the federal Investment Company Act of 1940 and  
26 registered under the Illinois Securities Law of 1953 or  
27 an investment adviser as defined under the federal  
28 Investment Advisers Act of 1940;

29 (B) the mutual fund has been in operation for at  
30 least 5 years; and

31 (C) the mutual fund has total net assets of  
32 \$150,000,000 or more;

33 (5) commercial grade real estate located in the State  
34 of Illinois.

1       Any investment adviser retained by a trust must be a  
2 fiduciary who has the power to manage, acquire, or dispose of  
3 any asset of the trust and has acknowledged in writing that he  
4 or she is a fiduciary with respect to the trust and that he or  
5 she will adhere to all of the guidelines of the trust and is  
6 one or more of the following:

7               (i) registered as an investment adviser under the  
8 federal Investment Advisers Act of 1940;

9               (ii) registered as an investment adviser under the  
10 Illinois Securities Law of 1953;

11               (iii) a bank as defined in the federal Investment  
12 Advisers Act of 1940;

13               (iv) an insurance company authorized to transact  
14 business in this State.

15       Nothing in this Section shall be construed to authorize a  
16 risk retention trust to accept the deposit of public funds  
17 except for trust risk retention purposes.

18       Section 10-925. The Illinois Insurance Code is amended by  
19 changing Sections 155.18, 155.19, 402, and 1204 and by adding  
20 Section 155.18a as follows:

21               (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

22       Sec. 155.18. (a) This Section shall apply to insurance on  
23 risks based upon negligence by a physician, hospital or other  
24 health care provider, referred to herein as medical liability  
25 insurance. This Section shall not apply to contracts of  
26 reinsurance, nor to any farm, county, district or township  
27 mutual insurance company transacting business under an Act  
28 entitled "An Act relating to local mutual district, county and  
29 township insurance companies", approved March 13, 1936, as now  
30 or hereafter amended, nor to any such company operating under a  
31 special charter.

32               (b) The following standards shall apply to the making and

1 use of rates pertaining to all classes of medical liability  
2 insurance:

3 (1) Rates shall not be excessive or inadequate, as  
4 herein defined, nor shall they be unfairly discriminatory.  
5 No rate shall be held to be excessive unless such rate is  
6 unreasonably high for the insurance provided, ~~and a~~  
7 ~~reasonable degree of competition does not exist in the area~~  
8 ~~with respect to the classification to which such rate is~~  
9 ~~applicable.~~

10 No rate shall be held inadequate unless it is  
11 unreasonably low for the insurance provided ~~and continued~~  
12 ~~use of it would endanger solvency of the company.~~

13 (2) Consideration shall be given, to the extent  
14 applicable, to past and prospective loss experience within  
15 and outside this State, to a reasonable margin for  
16 underwriting profit and contingencies, to past and  
17 prospective expenses both countrywide and those especially  
18 applicable to this State, and to all other factors,  
19 including judgment factors, deemed relevant within and  
20 outside this State.

21 Consideration may also be given in the making and use  
22 of rates to dividends, savings or unabsorbed premium  
23 deposits allowed or returned by companies to their  
24 policyholders, members or subscribers.

25 (3) The systems of expense provisions included in the  
26 rates for use by any company or group of companies may  
27 differ from those of other companies or groups of companies  
28 to reflect the operating methods of any such company or  
29 group with respect to any kind of insurance, or with  
30 respect to any subdivision or combination thereof.

31 (4) Risks may be grouped by classifications for the  
32 establishment of rates and minimum premiums.  
33 Classification rates may be modified to produce rates for  
34 individual risks in accordance with rating plans which

1 establish standards for measuring variations in hazards or  
2 expense provisions, or both. Such standards may measure any  
3 difference among risks that have a probable effect upon  
4 losses or expenses. Such classifications or modifications  
5 of classifications of risks may be established based upon  
6 size, expense, management, individual experience, location  
7 or dispersion of hazard, or any other reasonable  
8 considerations and shall apply to all risks under the same  
9 or substantially the same circumstances or conditions. The  
10 rate for an established classification should be related  
11 generally to the anticipated loss and expense factors of  
12 the class.

13 (c) Every company writing medical liability insurance  
14 shall file with the Secretary of Financial and Professional  
15 Regulation ~~Director of Insurance~~ the rates and rating schedules  
16 it uses for medical liability insurance.

17 (1) This filing shall occur upon a company's  
18 commencement of medical liability insurance business in  
19 this State ~~at least annually~~ and thereafter as often as the  
20 rates are changed or amended.

21 (2) For the purposes of this Section, any change in  
22 premium to the company's insureds as a result of a change  
23 in the company's base rates or a change in its increased  
24 limits factors shall constitute a change in rates and shall  
25 require a filing with the Secretary ~~Director~~.

26 (3) It shall be certified in such filing by an officer  
27 of the company and a qualified actuary that the company's  
28 rates are based on sound actuarial principles and are not  
29 inconsistent with the company's experience.

30 (d) If, after an administrative ~~a~~ hearing pursuant to  
31 subsection (c) of Section 401 of this Code, the Secretary  
32 ~~Director~~ finds:

33 (1) that any rate, rating plan or rating system  
34 violates the provisions of this Section applicable to it,

1 he shall ~~may~~ issue an order to the company which has been  
2 the subject of the hearing specifying in what respects such  
3 violation exists and may prohibit ~~stating when, within a~~  
4 ~~reasonable period of time,~~ the further use of such rate or  
5 rating system by such company in contracts of insurance  
6 ~~made thereafter shall be prohibited;~~

7 (2) that the violation of any of the provisions of this  
8 Section ~~applicable to it~~ by any company which has been the  
9 subject of the hearing was wilful or that any company has  
10 repeatedly violated any provision of this Section, he may  
11 take either or both of the following actions:

12 (A) Suspend ~~suspend~~ or revoke, in whole or in part,  
13 the certificate of authority of such company with  
14 respect to the class of insurance which has been the  
15 subject of the hearing.

16 (B) Impose a penalty of up to \$1,000 against the  
17 company for each violation. Each day during which a  
18 violation occurs constitutes a separate violation.

19 (e) Every company writing medical liability insurance in  
20 this State shall offer to each of its medical liability  
21 insureds the option to make premium payments in at least  
22 quarterly installments as prescribed by and filed with the  
23 Secretary. This offer shall be included in the initial offer or  
24 in the first policy renewal occurring after the effective date  
25 of this amendatory Act of the 94th General Assembly, but no  
26 earlier than January 1, 2006.

27 (f) Every company writing medical liability insurance is  
28 encouraged, but not required, to offer the opportunity for  
29 participation in a plan offering deductibles to its medical  
30 liability insureds. Any plan to offer deductibles shall be  
31 filed with the Department of Financial and Professional  
32 Regulation.

33 (g) Medical liability insurers are encouraged, but not  
34 required, to offer the opportunity for participation in a plan

1 providing premium discounts for participation in risk  
2 management activities to its medical liability insureds. Any  
3 such plan shall be filed with the Department.

4 (Source: P.A. 79-1434.)

5 (215 ILCS 5/155.18a new)

6 Sec. 155.18a. Professional Liability Insurance Resource  
7 Center. The Secretary of Financial and Professional Regulation  
8 shall establish a Professional Liability Insurance Resource  
9 Center on the World Wide Web containing the names and telephone  
10 numbers of all licensed companies providing medical liability  
11 insurance and producers who sell medical liability insurance.  
12 Each company and producer shall submit the information to the  
13 Department on or before September 30 of each year in order to  
14 be listed on the website. The Department is under no obligation  
15 to list a company or producer on the website. Hyperlinks to  
16 company websites shall be included, if available. The  
17 publication of the information on the Department's website  
18 shall commence on January 1, 2006. The Department shall update  
19 the information on the Professional Liability Insurance  
20 Resource Center at least annually.

21 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

22 Sec. 155.19. All claims filed after December 31, 1976 with  
23 any insurer and all suits filed after December 31, 1976 in any  
24 court in this State, alleging liability on the part of any  
25 physician, hospital or other health care provider for medically  
26 related injuries, shall be reported to the Secretary of  
27 Financial and Professional Regulation ~~Director of Insurance~~ in  
28 such form and under such terms and conditions as may be  
29 prescribed by the Secretary ~~Director~~. Notwithstanding any  
30 other provision of law to the contrary, any insurer, stop loss  
31 insurer, captive insurer, risk retention group, county risk  
32 retention trust, religious or charitable risk pooling trust,

1 surplus line insurer, or other entity authorized or permitted  
2 by law to provide medical liability insurance in this State  
3 shall report to the Secretary, in such form and under such  
4 terms and conditions as may be prescribed by the Secretary, all  
5 claims filed after December 31, 2005 and all suits filed after  
6 December 31, 2005 in any court in this State alleging liability  
7 on the part of any physician, hospital, or health care provider  
8 for medically-related injuries. Each clerk of the circuit court  
9 shall provide to the Secretary such information as the  
10 Secretary may deem necessary to verify the accuracy and  
11 completeness of reports made to the Secretary under this  
12 Section. The Secretary ~~Director~~ shall maintain complete and  
13 accurate records of all such claims and suits including their  
14 nature, amount, disposition and other information as he may  
15 deem useful or desirable in observing and reporting on health  
16 care provider liability trends in this State. The Secretary  
17 ~~Director~~ shall release to appropriate disciplinary and  
18 licensing agencies any such data or information which may  
19 assist such agencies in improving the quality of health care or  
20 which may be useful to such agencies for the purpose of  
21 professional discipline.

22 With due regard for appropriate maintenance of the  
23 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~  
24 release, on an annual basis, from time to time to the Governor,  
25 the General Assembly and the general public statistical reports  
26 based on such data and information.

27 If the Secretary finds that any entity required to report  
28 information in its possession under this Section has violated  
29 any provision of this Section by filing late, incomplete, or  
30 inaccurate reports, the Secretary may fine the entity up to  
31 \$1,000 for each offense. Each day during which a violation  
32 occurs constitutes a separate offense.

33 The Secretary ~~Director~~ may promulgate such rules and  
34 regulations as may be necessary to carry out the provisions of

1 this Section.

2 (Source: P.A. 79-1434.)

3 (215 ILCS 5/402) (from Ch. 73, par. 1014)

4 Sec. 402. Examinations, investigations and hearings. (1)

5 All examinations, investigations and hearings provided for by  
6 this Code may be conducted either by the Secretary ~~Director~~  
7 personally, or by one or more of the actuaries, technical  
8 advisors, deputies, supervisors or examiners employed or  
9 retained by the Department and designated by the Secretary  
10 ~~Director~~ for such purpose. When necessary to supplement its  
11 examination procedures, the Department may retain independent  
12 actuaries deemed competent by the Secretary ~~Director~~,  
13 independent certified public accountants, or qualified  
14 examiners of insurance companies deemed competent by the  
15 Secretary ~~Director~~, or any combination of the foregoing, the  
16 cost of which shall be borne by the company or person being  
17 examined. The Secretary ~~Director~~ may compensate independent  
18 actuaries, certified public accountants and qualified  
19 examiners retained for supplementing examination procedures in  
20 amounts not to exceed the reasonable and customary charges for  
21 such services. The Secretary ~~Director~~ may also accept as a part  
22 of the Department's examination of any company or person (a) a  
23 report by an independent actuary deemed competent by the  
24 Secretary ~~Director~~ or (b) a report of an audit made by an  
25 independent certified public accountant. Neither those persons  
26 so designated nor any members of their immediate families shall  
27 be officers of, connected with, or financially interested in  
28 any company other than as policyholders, nor shall they be  
29 financially interested in any other corporation or person  
30 affected by the examination, investigation or hearing.

31 (2) All hearings provided for in this Code shall, unless  
32 otherwise specially provided, be held at such time and place as  
33 shall be designated in a notice which shall be given by the

1 Secretary ~~Director~~ in writing to the person or company whose  
2 interests are affected, at least 10 days before the date  
3 designated therein. The notice shall state the subject of  
4 inquiry and the specific charges, if any. The hearings shall be  
5 held in the City of Springfield, the City of Chicago, or in the  
6 county where the principal business address of the person or  
7 company affected is located. For a rate increase filing in  
8 medical liability insurance under subsection (c) of Section  
9 155.18 of this Code, the Secretary may hold a hearing with the  
10 company and policyholders present for the purpose of receiving  
11 testimony from the company and policyholders regarding the rate  
12 increase. The hearing must occur under written and express  
13 terms and conditions that are sufficient to protect from  
14 disclosure information that the subject medical liability  
15 insurance company deems proprietary, confidential, or a trade  
16 secret. The insurance company must give notice of the hearing  
17 time, date, and location to medical liability insurance  
18 policyholders whose rates have increased. Notice to  
19 policyholders may be given through regular publications issued  
20 to policyholders or by electronic means. Other than the cost of  
21 this notice, the Department shall be responsible for the costs  
22 of this hearing.

23 (Source: P.A. 87-757.)

24 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

25 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate  
26 rules and regulations which shall require each insurer licensed  
27 to write property or casualty insurance in the State and each  
28 syndicate doing business on the Illinois Insurance Exchange to  
29 record and report its loss and expense experience and other  
30 data as may be necessary to assess the relationship of  
31 insurance premiums and related income as compared to insurance  
32 costs and expenses. The Secretary ~~Director~~ may designate one or  
33 more rate service organizations or advisory organizations to

1 gather and compile such experience and data. The Secretary  
2 ~~Director~~ shall require each insurer licensed to write property  
3 or casualty insurance in this State and each syndicate doing  
4 business on the Illinois Insurance Exchange to submit a report,  
5 on a form furnished by the Secretary ~~Director~~, showing its  
6 direct writings in this State and companywide.

7 (B) Such report required by subsection (A) of this Section  
8 may include, but not be limited to, the following specific  
9 types of insurance written by such insurer:

10 (1) Political subdivision liability insurance reported  
11 separately in the following categories:

12 (a) municipalities;

13 (b) school districts;

14 (c) other political subdivisions;

15 (2) Public official liability insurance;

16 (3) Dram shop liability insurance;

17 (4) Day care center liability insurance;

18 (5) Labor, fraternal or religious organizations  
19 liability insurance;

20 (6) Errors and omissions liability insurance;

21 (7) Officers and directors liability insurance  
22 reported separately as follows:

23 (a) non-profit entities;

24 (b) for-profit entities;

25 (8) Products liability insurance;

26 (9) Medical malpractice insurance;

27 (10) Attorney malpractice insurance;

28 (11) Architects and engineers malpractice insurance;

29 and

30 (12) Motor vehicle insurance reported separately for  
31 commercial and private passenger vehicles as follows:

32 (a) motor vehicle physical damage insurance;

33 (b) motor vehicle liability insurance.

34 (C) Such report may include, but need not be limited to the

1 following data, both specific to this State and companywide, in  
2 the aggregate or by type of insurance for the previous year on  
3 a calendar year basis:

4 (1) Direct premiums written;

5 (2) Direct premiums earned;

6 (3) Number of policies;

7 (4) Net investment income, using appropriate estimates

8 where necessary;

9 (5) Losses paid;

10 (6) Losses incurred;

11 (7) Loss reserves:

12 (a) Losses unpaid on reported claims;

13 (b) Losses unpaid on incurred but not reported  
14 claims;

15 (8) Number of claims:

16 (a) Paid claims;

17 (b) Arising claims;

18 (9) Loss adjustment expenses:

19 (a) Allocated loss adjustment expenses;

20 (b) Unallocated loss adjustment expenses;

21 (10) Net underwriting gain or loss;

22 (11) Net operation gain or loss, including net  
23 investment income;

24 (12) Any other information requested by the Secretary  
25 Director.

26 (C-5) Additional information required from medical  
27 malpractice insurers.

28 (1) In addition to the other requirements of this  
29 Section, all medical malpractice insurers shall include  
30 the following information in the report required by  
31 subsection (A) of this Section in such form and under such  
32 terms and conditions as may be prescribed by the Secretary:

33 (a) paid and incurred losses by county for each of  
34 the past 10 policy years; and

1           (b) earned exposures by ISO code, policy type, and  
2           policy year by county for each of the past 10 years.

3           (2) All information collected by the Secretary under  
4           paragraph (1) of this subsection (C-5) shall be made  
5           available, on an aggregate basis, to the General Assembly  
6           and the general public. This provision shall supersede any  
7           other provision of law that may otherwise protect such  
8           information from public disclosure as confidential. The  
9           identity of the plaintiff, the defendant, the attorneys,  
10           and the company shall not be disclosed.

11           (D) In addition to the information which may be requested  
12 under subsection (C), the Secretary ~~Director~~ may also request  
13 on a companywide, aggregate basis, Federal Income Tax  
14 recoverable, net realized capital gain or loss, net unrealized  
15 capital gain or loss, and all other expenses not requested in  
16 subsection (C) above.

17           (E) Violations - Suspensions - Revocations.

18           (1) Any company or person subject to this Article, who  
19 willfully or repeatedly fails to observe or who otherwise  
20 violates any of the provisions of this Article or any rule  
21 or regulation promulgated by the Secretary ~~Director~~ under  
22 authority of this Article or any final order of the  
23 Secretary ~~Director~~ entered under the authority of this  
24 Article shall by civil penalty forfeit to the State of  
25 Illinois a sum not to exceed \$2,000. Each day during which  
26 a violation occurs constitutes a separate offense.

27           (2) No forfeiture liability under paragraph (1) of this  
28 subsection may attach unless a written notice of apparent  
29 liability has been issued by the Secretary ~~Director~~ and  
30 received by the respondent, or the Secretary ~~Director~~ sends  
31 written notice of apparent liability by registered or  
32 certified mail, return receipt requested, to the last known  
33 address of the respondent. Any respondent so notified must  
34 be granted an opportunity to request a hearing within 10

1 days from receipt of notice, or to show in writing, why he  
2 should not be held liable. A notice issued under this  
3 Section must set forth the date, facts and nature of the  
4 act or omission with which the respondent is charged and  
5 must specifically identify the particular provision of  
6 this Article, rule, regulation or order of which a  
7 violation is charged.

8 (3) No forfeiture liability under paragraph (1) of this  
9 subsection may attach for any violation occurring more than  
10 2 years prior to the date of issuance of the notice of  
11 apparent liability and in no event may the total civil  
12 penalty forfeiture imposed for the acts or omissions set  
13 forth in any one notice of apparent liability exceed  
14 \$100,000.

15 (4) All administrative hearings conducted pursuant to  
16 this Article are subject to 50 Ill. Adm. Code 2402 and all  
17 administrative hearings are subject to the Administrative  
18 Review Law.

19 (5) The civil penalty forfeitures provided for in this  
20 Section are payable to the General Revenue Fund of the  
21 State of Illinois, and may be recovered in a civil suit in  
22 the name of the State of Illinois brought in the Circuit  
23 Court in Sangamon County or in the Circuit Court of the  
24 county where the respondent is domiciled or has its  
25 principal operating office.

26 (6) In any case where the Secretary ~~Director~~ issues a  
27 notice of apparent liability looking toward the imposition  
28 of a civil penalty forfeiture under this Section that fact  
29 may not be used in any other proceeding before the  
30 Secretary ~~Director~~ to the prejudice of the respondent to  
31 whom the notice was issued, unless (a) the civil penalty  
32 forfeiture has been paid, or (b) a court has ordered  
33 payment of the civil penalty forfeiture and that order has  
34 become final.

1           (7) When any person or company has a license or  
2 certificate of authority under this Code and knowingly  
3 fails or refuses to comply with a lawful order of the  
4 Secretary ~~Director~~ requiring compliance with this Article,  
5 entered after notice and hearing, within the period of time  
6 specified in the order, the Secretary ~~Director~~ may, in  
7 addition to any other penalty or authority provided, revoke  
8 or refuse to renew the license or certificate of authority  
9 of such person or company, or may suspend the license or  
10 certificate of authority of such person or company until  
11 compliance with such order has been obtained.

12           (8) When any person or company has a license or  
13 certificate of authority under this Code and knowingly  
14 fails or refuses to comply with any provisions of this  
15 Article, the Secretary ~~Director~~ may, after notice and  
16 hearing, in addition to any other penalty provided, revoke  
17 or refuse to renew the license or certificate of authority  
18 of such person or company, or may suspend the license or  
19 certificate of authority of such person or company, until  
20 compliance with such provision of this Article has been  
21 obtained.

22           (9) No suspension or revocation under this Section may  
23 become effective until 5 days from the date that the notice  
24 of suspension or revocation has been personally delivered  
25 or delivered by registered or certified mail to the company  
26 or person. A suspension or revocation under this Section is  
27 stayed upon the filing, by the company or person, of a  
28 petition for judicial review under the Administrative  
29 Review Law.

30 (Source: P.A. 93-32, eff. 7-1-03.)

31           Section 10-930. The Clerks of Courts Act is amended by  
32 adding Section 27.10 as follows:

1 (705 ILCS 105/27.10 new)

2 Sec. 27.10. Secretary of Financial and Professional  
3 Regulation. Each clerk of the circuit court shall provide to  
4 the Secretary of Financial and Professional Regulation such  
5 information as he or she requests under Section 155.19 of the  
6 Illinois Insurance Code.

7 ARTICLE 15. MEDICAL PRACTICE FOSTERING AND REGULATION

8 Section 15-1. Short title. This Article 15 may be cited as  
9 the Loan Repayment Assistance for Physicians Practicing in  
10 Medical Care Shortage Areas Act, and references in this Article  
11 to "this Act" mean this Article.

12 Section 15-5. Purpose. The purpose of this Act is to  
13 establish a program in the Department of Financial and  
14 Professional Regulation to increase the total number of  
15 physicians practicing in counties in the State that the  
16 Department deems medical care shortage areas by providing  
17 educational loan repayment assistance grants to those  
18 physicians.

19 Section 15-10. Definitions. In this Act, unless the  
20 context otherwise requires:

21 "Department" means the Department of Financial and  
22 Professional Regulation.

23 "Educational loans" means higher education student loans  
24 that a person has incurred in attending a registered  
25 professional physician education program.

26 "Physician" means a person licensed under the Medical  
27 Practice Act of 1987 to practice medicine in all of its  
28 branches.

29 "Program" means the educational loan repayment assistance  
30 program for physicians established by the Department under this

1 Act.

2 Section 15-15. Establishment of program. The Department  
3 shall conduct an annual survey identifying counties in the  
4 State that the Department deems medical care shortage areas.  
5 The Department shall establish an educational loan repayment  
6 assistance program for physicians who practice in counties in  
7 the State that the Department deems medical care shortage  
8 areas. The Department shall administer the program and make all  
9 necessary and proper rules not inconsistent with this Act for  
10 the program's effective implementation. The Department may use  
11 up to 5% of the appropriation for this program for  
12 administration and promotion of physician incentive programs.

13 Section 15-20. Application. Beginning July 1, 2005, the  
14 Department shall, each year, consider applications for  
15 assistance under the program. The form of application and the  
16 information required to be set forth in the application shall  
17 be determined by the Department, and the Department shall  
18 require applicants to submit with their applications such  
19 supporting documents as the Department deems necessary.

20 Section 15-25. Eligibility. To be eligible for assistance  
21 under the program, an applicant must meet all of the following  
22 qualifications:

23 (1) He or she must be a citizen or permanent resident  
24 of the United States.

25 (2) He or she must be a resident of Illinois.

26 (3) He or she must be practicing full-time as a  
27 physician in a county in the State that the Department  
28 deems a medical care shortage area.

29 (4) He or she must currently be repaying educational  
30 loans.

31 (5) He or she must agree to continue full-time practice

1 in Illinois for 3 years.

2 Section 15-30. Awarding grants. Under the program, for  
3 each year that a qualified applicant practices full-time in  
4 Illinois as a physician, the Department shall, subject to  
5 appropriation, award a grant to that person in an amount equal  
6 to the amount in educational loans that the person must repay  
7 that year. However, the total amount in grants that a person  
8 may be awarded under the program shall not exceed \$30,000. The  
9 Department shall require recipients to use the grants to pay  
10 off their educational loans.

11 Section 15-35. Penalty for failure to fulfill obligation.  
12 Loan repayment recipients who fail to practice full-time in  
13 Illinois for 3 years shall repay the Department a sum equal to  
14 3 times the amount received under the program.

15 Section 15-905. The Nursing Home Care Act is amended by  
16 changing Section 3-602 as follows:

17 (210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

18 Sec. 3-602. The licensee shall pay the actual damages and  
19 costs and reasonable attorney's fees as related to the award  
20 granted ~~attorney's fees~~ to a facility resident whose rights, as  
21 specified in Part 1 of Article II of this Act, are violated.  
22 Such attorney's fees shall be subject to judicial review to  
23 determine their reasonableness.

24 (Source: P.A. 89-197, eff. 7-21-95.)

25 Section 15-910. The Medical Practice Act of 1987 is amended  
26 by changing Sections 7, 22, 23, 24, and 36 as follows:

27 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

28 (Section scheduled to be repealed on January 1, 2007)

1           Sec. 7. Medical Disciplinary Board.

2           (A) There is hereby created the Illinois State Medical  
3           Disciplinary Board (hereinafter referred to as the  
4           "Disciplinary Board"). The Disciplinary Board shall consist of  
5           9 members, to be appointed by the Governor by and with the  
6           advice and consent of the Senate. All shall be residents of the  
7           State, not more than 5 of whom shall be members of the same  
8           political party. Five members shall be physicians licensed to  
9           practice medicine in all of its branches in Illinois possessing  
10          the degree of doctor of medicine. Two shall be members of the  
11          public, who shall not be engaged in any way, directly or  
12          indirectly, as providers of health care. The 2 public members  
13          shall act as voting members. One member shall be a physician  
14          licensed to practice in Illinois possessing the degree of  
15          doctor of osteopathy or osteopathic medicine. One member shall  
16          be a physician licensed to practice in Illinois and possessing  
17          the degree of doctor of chiropractic.

18          (B) Members of the Disciplinary Board shall be appointed  
19          for terms of 4 years. Upon the expiration of the term of any  
20          member, their successor shall be appointed for a term of 4  
21          years by the Governor by and with the advice and consent of the  
22          Senate. The Governor shall fill any vacancy for the remainder  
23          of the unexpired term by and with the advice and consent of the  
24          Senate. Upon recommendation of the Board, any member of the  
25          Disciplinary Board may be removed by the Governor for  
26          misfeasance, malfeasance, or wilful neglect of duty, after  
27          notice, and a public hearing, unless such notice and hearing  
28          shall be expressly waived in writing. Each member shall serve  
29          on the Disciplinary Board until their successor is appointed  
30          and qualified. No member of the Disciplinary Board shall serve  
31          more than 2 consecutive 4 year terms.

32          In making appointments the Governor shall attempt to insure  
33          that the various social and geographic regions of the State of  
34          Illinois are properly represented.

1           In making the designation of persons to act for the several  
2 professions represented on the Disciplinary Board, the  
3 Governor shall give due consideration to recommendations by  
4 members of the respective professions and by organizations  
5 therein.

6           (C) The Disciplinary Board shall annually elect one of its  
7 voting members as chairperson and one as vice chairperson. No  
8 officer shall be elected more than twice in succession to the  
9 same office. Each officer shall serve until their successor has  
10 been elected and qualified.

11           (D) (Blank).

12           (E) Four voting members of the Disciplinary Board shall  
13 constitute a quorum. A vacancy in the membership of the  
14 Disciplinary Board shall not impair the right of a quorum to  
15 exercise all the rights and perform all the duties of the  
16 Disciplinary Board. Any action taken by the Disciplinary Board  
17 under this Act may be authorized by resolution at any regular  
18 or special meeting and each such resolution shall take effect  
19 immediately. The Disciplinary Board shall meet at least  
20 quarterly. The Disciplinary Board is empowered to adopt all  
21 rules and regulations necessary and incident to the powers  
22 granted to it under this Act.

23           (F) Each member, and member-officer, of the Disciplinary  
24 Board shall receive a per diem stipend as the Secretary  
25 ~~Director~~ of the Department, hereinafter referred to as the  
26 Secretary Director, shall determine. The Secretary Director  
27 shall also determine the per diem stipend that each ex-officio  
28 member shall receive. Each member shall be paid their necessary  
29 expenses while engaged in the performance of their duties.

30           (G) The Secretary Director shall select a Chief Medical  
31 Coordinator and not less than 2 ~~a~~ Deputy Medical Coordinators  
32 ~~Coordinator~~ who shall not be members of the Disciplinary Board.  
33 Each medical coordinator shall be a physician licensed to  
34 practice medicine in all of its branches, and the Secretary

1 ~~Director~~ shall set their rates of compensation. The Secretary  
2 ~~Director~~ shall assign at least one medical coordinator to a  
3 region composed of Cook County and such other counties as the  
4 Secretary ~~Director~~ may deem appropriate, and such medical  
5 coordinator or coordinators shall locate their office in  
6 Chicago. The Secretary ~~Director~~ shall assign at least one ~~the~~  
7 ~~remaining~~ medical coordinator to a region composed of the  
8 balance of counties in the State, and such medical coordinator  
9 or coordinators shall locate their office in Springfield. Each  
10 medical coordinator shall be the chief enforcement officer of  
11 this Act in his or her ~~their~~ assigned region and shall serve at  
12 the will of the Disciplinary Board.

13 The Secretary ~~Director~~ shall employ, in conformity with the  
14 Personnel Code, not less than one full time investigator for  
15 every 2,500 ~~5000~~ physicians licensed in the State. Each  
16 investigator shall be a college graduate with at least 2 years'  
17 investigative experience or one year advanced medical  
18 education. Upon the written request of the Disciplinary Board,  
19 the Secretary ~~Director~~ shall employ, in conformity with the  
20 Personnel Code, such other professional, technical,  
21 investigative, and clerical help, either on a full or part-time  
22 basis as the Disciplinary Board deems necessary for the proper  
23 performance of its duties.

24 (H) Upon the specific request of the Disciplinary Board,  
25 signed by either the chairman, vice chairman, or a medical  
26 coordinator of the Disciplinary Board, the Department of Human  
27 Services or the Department of State Police shall make available  
28 any and all information that they have in their possession  
29 regarding a particular case then under investigation by the  
30 Disciplinary Board.

31 (I) Members of the Disciplinary Board shall be immune from  
32 suit in any action based upon any disciplinary proceedings or  
33 other acts performed in good faith as members of the  
34 Disciplinary Board.

1 (J) The Disciplinary Board may compile and establish a  
2 statewide roster of physicians and other medical  
3 professionals, including the several medical specialties, of  
4 such physicians and medical professionals, who have agreed to  
5 serve from time to time as advisors to the medical  
6 coordinators. Such advisors shall assist the medical  
7 coordinators or the Disciplinary Board in their investigations  
8 and participation in complaints against physicians. Such  
9 advisors shall serve under contract and shall be reimbursed at  
10 a reasonable rate for the services provided, plus reasonable  
11 expenses incurred. While serving in this capacity, the advisor,  
12 for any act undertaken in good faith and in the conduct of  
13 their duties under this Section, shall be immune from civil  
14 suit.

15 (Source: P.A. 93-138, eff. 7-10-03.)

16 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

17 (Section scheduled to be repealed on January 1, 2007)

18 Sec. 22. Disciplinary action.

19 (A) The Department may revoke, suspend, place on  
20 probationary status, refuse to renew, or take any other  
21 disciplinary action as the Department may deem proper with  
22 regard to the license or visiting professor permit of any  
23 person issued under this Act to practice medicine, or to treat  
24 human ailments without the use of drugs and without operative  
25 surgery upon any of the following grounds:

26 (1) Performance of an elective abortion in any place,  
27 locale, facility, or institution other than:

28 (a) a facility licensed pursuant to the Ambulatory  
29 Surgical Treatment Center Act;

30 (b) an institution licensed under the Hospital  
31 Licensing Act; or

32 (c) an ambulatory surgical treatment center or  
33 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or  
2 agency has authority under law to establish and enforce  
3 standards for the ambulatory surgical treatment  
4 centers, hospitalization, or care facilities under its  
5 management and control; or

6 (d) ambulatory surgical treatment centers,  
7 hospitalization or care facilities maintained by the  
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,  
10 hospitalization or care facilities maintained by any  
11 university or college established under the laws of  
12 this State and supported principally by public funds  
13 raised by taxation.

14 (2) Performance of an abortion procedure in a wilful  
15 and wanton manner on a woman who was not pregnant at the  
16 time the abortion procedure was performed.

17 (3) The conviction of a felony in this or any other  
18 jurisdiction, except as otherwise provided in subsection B  
19 of this Section, whether or not related to practice under  
20 this Act, or the entry of a guilty or nolo contendere plea  
21 to a felony charge.

22 (4) Gross negligence in practice under this Act.

23 (5) Engaging in dishonorable, unethical or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud or harm the public.

26 (6) Obtaining any fee by fraud, deceit, or  
27 misrepresentation.

28 (7) Habitual or excessive use or abuse of drugs defined  
29 in law as controlled substances, of alcohol, or of any  
30 other substances which results in the inability to practice  
31 with reasonable judgment, skill or safety.

32 (8) Practicing under a false or, except as provided by  
33 law, an assumed name.

34 (9) Fraud or misrepresentation in applying for, or

1       procuring, a license under this Act or in connection with  
2       applying for renewal of a license under this Act.

3           (10) Making a false or misleading statement regarding  
4       their skill or the efficacy or value of the medicine,  
5       treatment, or remedy prescribed by them at their direction  
6       in the treatment of any disease or other condition of the  
7       body or mind.

8           (11) Allowing another person or organization to use  
9       their license, procured under this Act, to practice.

10          (12) Disciplinary action of another state or  
11       jurisdiction against a license or other authorization to  
12       practice as a medical doctor, doctor of osteopathy, doctor  
13       of osteopathic medicine or doctor of chiropractic, a  
14       certified copy of the record of the action taken by the  
15       other state or jurisdiction being prima facie evidence  
16       thereof.

17          (13) Violation of any provision of this Act or of the  
18       Medical Practice Act prior to the repeal of that Act, or  
19       violation of the rules, or a final administrative action of  
20       the Secretary ~~Director~~, after consideration of the  
21       recommendation of the Disciplinary Board.

22          (14) Dividing with anyone other than physicians with  
23       whom the licensee practices in a partnership, Professional  
24       Association, limited liability company, or Medical or  
25       Professional Corporation any fee, commission, rebate or  
26       other form of compensation for any professional services  
27       not actually and personally rendered. Nothing contained in  
28       this subsection prohibits persons holding valid and  
29       current licenses under this Act from practicing medicine in  
30       partnership under a partnership agreement, including a  
31       limited liability partnership, in a limited liability  
32       company under the Limited Liability Company Act, in a  
33       corporation authorized by the Medical Corporation Act, as  
34       an association authorized by the Professional Association

1 Act, or in a corporation under the Professional Corporation  
2 Act or from pooling, sharing, dividing or apportioning the  
3 fees and monies received by them or by the partnership,  
4 corporation or association in accordance with the  
5 partnership agreement or the policies of the Board of  
6 Directors of the corporation or association. Nothing  
7 contained in this subsection prohibits 2 or more  
8 corporations authorized by the Medical Corporation Act,  
9 from forming a partnership or joint venture of such  
10 corporations, and providing medical, surgical and  
11 scientific research and knowledge by employees of these  
12 corporations if such employees are licensed under this Act,  
13 or from pooling, sharing, dividing, or apportioning the  
14 fees and monies received by the partnership or joint  
15 venture in accordance with the partnership or joint venture  
16 agreement. Nothing contained in this subsection shall  
17 abrogate the right of 2 or more persons, holding valid and  
18 current licenses under this Act, to each receive adequate  
19 compensation for concurrently rendering professional  
20 services to a patient and divide a fee; provided, the  
21 patient has full knowledge of the division, and, provided,  
22 that the division is made in proportion to the services  
23 performed and responsibility assumed by each.

24 (15) A finding by the Medical Disciplinary Board that  
25 the registrant after having his or her license placed on  
26 probationary status or subjected to conditions or  
27 restrictions violated the terms of the probation or failed  
28 to comply with such terms or conditions.

29 (16) Abandonment of a patient.

30 (17) Prescribing, selling, administering,  
31 distributing, giving or self-administering any drug  
32 classified as a controlled substance (designated product)  
33 or narcotic for other than medically accepted therapeutic  
34 purposes.

1           (18) Promotion of the sale of drugs, devices,  
2 appliances or goods provided for a patient in such manner  
3 as to exploit the patient for financial gain of the  
4 physician.

5           (19) Offering, undertaking or agreeing to cure or treat  
6 disease by a secret method, procedure, treatment or  
7 medicine, or the treating, operating or prescribing for any  
8 human condition by a method, means or procedure which the  
9 licensee refuses to divulge upon demand of the Department.

10          (20) Immoral conduct in the commission of any act  
11 including, but not limited to, commission of an act of  
12 sexual misconduct related to the licensee's practice.

13          (21) Wilfully making or filing false records or reports  
14 in his or her practice as a physician, including, but not  
15 limited to, false records to support claims against the  
16 medical assistance program of the Department of Public Aid  
17 under the Illinois Public Aid Code.

18          (22) Wilful omission to file or record, or wilfully  
19 impeding the filing or recording, or inducing another  
20 person to omit to file or record, medical reports as  
21 required by law, or wilfully failing to report an instance  
22 of suspected abuse or neglect as required by law.

23          (23) Being named as a perpetrator in an indicated  
24 report by the Department of Children and Family Services  
25 under the Abused and Neglected Child Reporting Act, and  
26 upon proof by clear and convincing evidence that the  
27 licensee has caused a child to be an abused child or  
28 neglected child as defined in the Abused and Neglected  
29 Child Reporting Act.

30          (24) Solicitation of professional patronage by any  
31 corporation, agents or persons, or profiting from those  
32 representing themselves to be agents of the licensee.

33          (25) Gross and wilful and continued overcharging for  
34 professional services, including filing false statements

1 for collection of fees for which services are not rendered,  
2 including, but not limited to, filing such false statements  
3 for collection of monies for services not rendered from the  
4 medical assistance program of the Department of Public Aid  
5 under the Illinois Public Aid Code.

6 (26) A pattern of practice or other behavior which  
7 demonstrates incapacity or incompetence to practice under  
8 this Act.

9 (27) Mental illness or disability which results in the  
10 inability to practice under this Act with reasonable  
11 judgment, skill or safety.

12 (28) Physical illness, including, but not limited to,  
13 deterioration through the aging process, or loss of motor  
14 skill which results in a physician's inability to practice  
15 under this Act with reasonable judgment, skill or safety.

16 (29) Cheating on or attempt to subvert the licensing  
17 examinations administered under this Act.

18 (30) Wilfully or negligently violating the  
19 confidentiality between physician and patient except as  
20 required by law.

21 (31) The use of any false, fraudulent, or deceptive  
22 statement in (a) any document, (b) any consulting report  
23 pursuant to Section 2-622 of the Code of Civil Procedure,  
24 (c) any deposition, or (d) any testimony before a court or  
25 at an administrative hearing connected with practice under  
26 this Act.

27 (32) Aiding and abetting an individual not licensed  
28 under this Act in the practice of a profession licensed  
29 under this Act.

30 (33) Violating state or federal laws or regulations  
31 relating to controlled substances, legend drugs, or  
32 ephedra, as defined in the Ephedra Prohibition Act.

33 (34) Failure to report to the Department any adverse  
34 final action taken against them by another licensing

1 jurisdiction (any other state or any territory of the  
2 United States or any foreign state or country), by any peer  
3 review body, by any health care institution, by any  
4 professional society or association related to practice  
5 under this Act, by any governmental agency, by any law  
6 enforcement agency, or by any court for acts or conduct  
7 similar to acts or conduct which would constitute grounds  
8 for action as defined in this Section.

9 (35) Failure to report to the Department surrender of a  
10 license or authorization to practice as a medical doctor, a  
11 doctor of osteopathy, a doctor of osteopathic medicine, or  
12 doctor of chiropractic in another state or jurisdiction, or  
13 surrender of membership on any medical staff or in any  
14 medical or professional association or society, while  
15 under disciplinary investigation by any of those  
16 authorities or bodies, for acts or conduct similar to acts  
17 or conduct which would constitute grounds for action as  
18 defined in this Section.

19 (36) Failure to report to the Department any adverse  
20 judgment, settlement, or award arising from a liability  
21 claim related to acts or conduct similar to acts or conduct  
22 which would constitute grounds for action as defined in  
23 this Section.

24 (37) Failure to transfer copies of medical records as  
25 required by law.

26 (38) Failure to furnish the Department, its  
27 investigators or representatives, relevant information,  
28 legally requested by the Department after consultation  
29 with the Chief Medical Coordinator or the Deputy Medical  
30 Coordinator.

31 (39) Violating the Health Care Worker Self-Referral  
32 Act.

33 (40) Willful failure to provide notice when notice is  
34 required under the Parental Notice of Abortion Act of 1995.

1 (41) Failure to establish and maintain records of  
2 patient care and treatment as required by this law.

3 (42) Entering into an excessive number of written  
4 collaborative agreements with licensed advanced practice  
5 nurses resulting in an inability to adequately collaborate  
6 and provide medical direction.

7 (43) Repeated failure to adequately collaborate with  
8 or provide medical direction to a licensed advanced  
9 practice nurse.

10 Except for actions involving the ground numbered (26), all  
11 ~~All~~ proceedings to suspend, revoke, place on probationary  
12 status, or take any other disciplinary action as the Department  
13 may deem proper, with regard to a license on any of the  
14 foregoing grounds, must be commenced within 5 ~~3~~ years next  
15 after receipt by the Department of a complaint alleging the  
16 commission of or notice of the conviction order for any of the  
17 acts described herein. Except for the grounds numbered (8),  
18 (9), (26), and (29), no action shall be commenced more than 10  
19 ~~5~~ years after the date of the incident or act alleged to have  
20 violated this Section. For actions involving the ground  
21 numbered (26), a pattern of practice or other behavior includes  
22 all incidents alleged to be part of the pattern of practice or  
23 other behavior that occurred or a report pursuant to Section 23  
24 of this Act received within the 10-year period preceding the  
25 filing of the complaint. In the event of the settlement of any  
26 claim or cause of action in favor of the claimant or the  
27 reduction to final judgment of any civil action in favor of the  
28 plaintiff, such claim, cause of action or civil action being  
29 grounded on the allegation that a person licensed under this  
30 Act was negligent in providing care, the Department shall have  
31 an additional period of 2 years ~~one year~~ from the date of  
32 notification to the Department under Section 23 of this Act of  
33 such settlement or final judgment in which to investigate and  
34 commence formal disciplinary proceedings under Section 36 of

1 this Act, except as otherwise provided by law. The Department  
2 shall expunge the records of discipline solely for  
3 administrative matters, as defined by rule, 3 years after final  
4 disposition or after the statute of limitations has expired,  
5 whichever is later. The time during which the holder of the  
6 license was outside the State of Illinois shall not be included  
7 within any period of time limiting the commencement of  
8 disciplinary action by the Department.

9 The entry of an order or judgment by any circuit court  
10 establishing that any person holding a license under this Act  
11 is a person in need of mental treatment operates as a  
12 suspension of that license. That person may resume their  
13 practice only upon the entry of a Departmental order based upon  
14 a finding by the Medical Disciplinary Board that they have been  
15 determined to be recovered from mental illness by the court and  
16 upon the Disciplinary Board's recommendation that they be  
17 permitted to resume their practice.

18 The Department may refuse to issue or take disciplinary  
19 action concerning the license of any person who fails to file a  
20 return, or to pay the tax, penalty or interest shown in a filed  
21 return, or to pay any final assessment of tax, penalty or  
22 interest, as required by any tax Act administered by the  
23 Illinois Department of Revenue, until such time as the  
24 requirements of any such tax Act are satisfied as determined by  
25 the Illinois Department of Revenue.

26 The Department, upon the recommendation of the  
27 Disciplinary Board, shall adopt rules which set forth standards  
28 to be used in determining:

29 (a) when a person will be deemed sufficiently  
30 rehabilitated to warrant the public trust;

31 (b) what constitutes dishonorable, unethical or  
32 unprofessional conduct of a character likely to deceive,  
33 defraud, or harm the public;

34 (c) what constitutes immoral conduct in the commission

1 of any act, including, but not limited to, commission of an  
2 act of sexual misconduct related to the licensee's  
3 practice; and

4 (d) what constitutes gross negligence in the practice  
5 of medicine.

6 However, no such rule shall be admissible into evidence in  
7 any civil action except for review of a licensing or other  
8 disciplinary action under this Act.

9 In enforcing this Section, the Medical Disciplinary Board,  
10 upon a showing of a possible violation, may compel any  
11 individual licensed to practice under this Act, or who has  
12 applied for licensure or a permit pursuant to this Act, to  
13 submit to a mental or physical examination, or both, as  
14 required by and at the expense of the Department. The examining  
15 physician or physicians shall be those specifically designated  
16 by the Disciplinary Board. The Medical Disciplinary Board or  
17 the Department may order the examining physician to present  
18 testimony concerning this mental or physical examination of the  
19 licensee or applicant. No information shall be excluded by  
20 reason of any common law or statutory privilege relating to  
21 communication between the licensee or applicant and the  
22 examining physician. The individual to be examined may have, at  
23 his or her own expense, another physician of his or her choice  
24 present during all aspects of the examination. Failure of any  
25 individual to submit to mental or physical examination, when  
26 directed, shall be grounds for suspension of his or her license  
27 until such time as the individual submits to the examination if  
28 the Disciplinary Board finds, after notice and hearing, that  
29 the refusal to submit to the examination was without reasonable  
30 cause. If the Disciplinary Board finds a physician unable to  
31 practice because of the reasons set forth in this Section, the  
32 Disciplinary Board shall require such physician to submit to  
33 care, counseling, or treatment by physicians approved or  
34 designated by the Disciplinary Board, as a condition for

1 continued, reinstated, or renewed licensure to practice. Any  
2 physician, whose license was granted pursuant to Sections 9,  
3 17, or 19 of this Act, or, continued, reinstated, renewed,  
4 disciplined or supervised, subject to such terms, conditions or  
5 restrictions who shall fail to comply with such terms,  
6 conditions or restrictions, or to complete a required program  
7 of care, counseling, or treatment, as determined by the Chief  
8 Medical Coordinator or Deputy Medical Coordinators, shall be  
9 referred to the Secretary ~~Director~~ for a determination as to  
10 whether the licensee shall have their license suspended  
11 immediately, pending a hearing by the Disciplinary Board. In  
12 instances in which the Secretary ~~Director~~ immediately suspends  
13 a license under this Section, a hearing upon such person's  
14 license must be convened by the Disciplinary Board within 15  
15 days after such suspension and completed without appreciable  
16 delay. The Disciplinary Board shall have the authority to  
17 review the subject physician's record of treatment and  
18 counseling regarding the impairment, to the extent permitted by  
19 applicable federal statutes and regulations safeguarding the  
20 confidentiality of medical records.

21 An individual licensed under this Act, affected under this  
22 Section, shall be afforded an opportunity to demonstrate to the  
23 Disciplinary Board that they can resume practice in compliance  
24 with acceptable and prevailing standards under the provisions  
25 of their license.

26 The Department may promulgate rules for the imposition of  
27 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for  
28 each violation of this Act. Fines may be imposed in conjunction  
29 with other forms of disciplinary action, but shall not be the  
30 exclusive disposition of any disciplinary action arising out of  
31 conduct resulting in death or injury to a patient. Any funds  
32 collected from such fines shall be deposited in the Medical  
33 Disciplinary Fund.

34 (B) The Department shall revoke the license or visiting

1 permit of any person issued under this Act to practice medicine  
2 or to treat human ailments without the use of drugs and without  
3 operative surgery, who has been convicted a second time of  
4 committing any felony under the Illinois Controlled Substances  
5 Act, or who has been convicted a second time of committing a  
6 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois  
7 Public Aid Code. A person whose license or visiting permit is  
8 revoked under this subsection B of Section 22 of this Act shall  
9 be prohibited from practicing medicine or treating human  
10 ailments without the use of drugs and without operative  
11 surgery.

12 (C) The Medical Disciplinary Board shall recommend to the  
13 Department civil penalties and any other appropriate  
14 discipline in disciplinary cases when the Board finds that a  
15 physician willfully performed an abortion with actual  
16 knowledge that the person upon whom the abortion has been  
17 performed is a minor or an incompetent person without notice as  
18 required under the Parental Notice of Abortion Act of 1995.  
19 Upon the Board's recommendation, the Department shall impose,  
20 for the first violation, a civil penalty of \$1,000 and for a  
21 second or subsequent violation, a civil penalty of \$5,000.

22 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,  
23 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

24 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

25 (Section scheduled to be repealed on January 1, 2007)

26 Sec. 23. Reports relating to professional conduct and  
27 capacity.

28 (A) Entities required to report.

29 (1) Health care institutions. The chief administrator  
30 or executive officer of any health care institution  
31 licensed by the Illinois Department of Public Health shall  
32 report to the Disciplinary Board when any person's clinical  
33 privileges are terminated or are restricted based on a

1 final determination, in accordance with that institution's  
2 by-laws or rules and regulations, that a person has either  
3 committed an act or acts which may directly threaten  
4 patient care, and not of an administrative nature, or that  
5 a person may be mentally or physically disabled in such a  
6 manner as to endanger patients under that person's care.  
7 Such officer also shall report if a person accepts  
8 voluntary termination or restriction of clinical  
9 privileges in lieu of formal action based upon conduct  
10 related directly to patient care and not of an  
11 administrative nature, or in lieu of formal action seeking  
12 to determine whether a person may be mentally or physically  
13 disabled in such a manner as to endanger patients under  
14 that person's care. The Medical Disciplinary Board shall,  
15 by rule, provide for the reporting to it of all instances  
16 in which a person, licensed under this Act, who is impaired  
17 by reason of age, drug or alcohol abuse or physical or  
18 mental impairment, is under supervision and, where  
19 appropriate, is in a program of rehabilitation. Such  
20 reports shall be strictly confidential and may be reviewed  
21 and considered only by the members of the Disciplinary  
22 Board, or by authorized staff as provided by rules of the  
23 Disciplinary Board. Provisions shall be made for the  
24 periodic report of the status of any such person not less  
25 than twice annually in order that the Disciplinary Board  
26 shall have current information upon which to determine the  
27 status of any such person. Such initial and periodic  
28 reports of impaired physicians shall not be considered  
29 records within the meaning of The State Records Act and  
30 shall be disposed of, following a determination by the  
31 Disciplinary Board that such reports are no longer  
32 required, in a manner and at such time as the Disciplinary  
33 Board shall determine by rule. The filing of such reports  
34 shall be construed as the filing of a report for purposes

1 of subsection (C) of this Section.

2 (2) Professional associations. The President or chief  
3 executive officer of any association or society, of persons  
4 licensed under this Act, operating within this State shall  
5 report to the Disciplinary Board when the association or  
6 society renders a final determination that a person has  
7 committed unprofessional conduct related directly to  
8 patient care or that a person may be mentally or physically  
9 disabled in such a manner as to endanger patients under  
10 that person's care.

11 (3) Professional liability insurers. Every insurance  
12 company which offers policies of professional liability  
13 insurance to persons licensed under this Act, or any other  
14 entity which seeks to indemnify the professional liability  
15 of a person licensed under this Act, shall report to the  
16 Disciplinary Board the settlement of any claim or cause of  
17 action, or final judgment rendered in any cause of action,  
18 which alleged negligence in the furnishing of medical care  
19 by such licensed person when such settlement or final  
20 judgment is in favor of the plaintiff.

21 (4) State's Attorneys. The State's Attorney of each  
22 county shall report to the Disciplinary Board all instances  
23 in which a person licensed under this Act is convicted or  
24 otherwise found guilty of the commission of any felony. The  
25 State's Attorney of each county may report to the  
26 Disciplinary Board through a verified complaint any  
27 instance in which the State's Attorney believes that a  
28 physician has willfully violated the notice requirements  
29 of the Parental Notice of Abortion Act of 1995.

30 (5) State agencies. All agencies, boards, commissions,  
31 departments, or other instrumentalities of the government  
32 of the State of Illinois shall report to the Disciplinary  
33 Board any instance arising in connection with the  
34 operations of such agency, including the administration of

1 any law by such agency, in which a person licensed under  
2 this Act has either committed an act or acts which may be a  
3 violation of this Act or which may constitute  
4 unprofessional conduct related directly to patient care or  
5 which indicates that a person licensed under this Act may  
6 be mentally or physically disabled in such a manner as to  
7 endanger patients under that person's care.

8 (B) Mandatory reporting. All reports required by items  
9 (34), (35), and (36) of subsection (A) of Section 22 and by  
10 Section 23 shall be submitted to the Disciplinary Board in a  
11 timely fashion. The reports shall be filed in writing within 60  
12 days after a determination that a report is required under this  
13 Act. All reports shall contain the following information:

14 (1) The name, address and telephone number of the  
15 person making the report.

16 (2) The name, address and telephone number of the  
17 person who is the subject of the report.

18 (3) The name and date of birth ~~or other means of~~  
19 ~~identification~~ of any patient or patients whose treatment  
20 is a subject of the report, if available, or other means of  
21 identification if such information is not available,  
22 identification of the hospital or other healthcare  
23 facility where the care at issue in the report was  
24 rendered, provided, however, no medical records may be  
25 revealed ~~without the written consent of the patient or~~  
26 ~~patients.~~

27 (4) A brief description of the facts which gave rise to  
28 the issuance of the report, including the dates of any  
29 occurrences deemed to necessitate the filing of the report.

30 (5) If court action is involved, the identity of the  
31 court in which the action is filed, along with the docket  
32 number and date of filing of the action.

33 (6) Any further pertinent information which the  
34 reporting party deems to be an aid in the evaluation of the

1 report.

2 ~~The Department shall have the right to inform patients of~~  
3 ~~the right to provide written consent for the Department to~~  
4 ~~obtain copies of hospital and medical records.~~ The Disciplinary  
5 Board or Department may also exercise the power under Section  
6 38 of this Act to subpoena copies of hospital or medical  
7 records in mandatory report cases alleging death or permanent  
8 bodily injury ~~when consent to obtain records is not provided by~~  
9 ~~a patient or legal representative.~~ Appropriate rules shall be  
10 adopted by the Department with the approval of the Disciplinary  
11 Board.

12 When the Department has received written reports  
13 concerning incidents required to be reported in items (34),  
14 (35), and (36) of subsection (A) of Section 22, the licensee's  
15 failure to report the incident to the Department under those  
16 items shall not be the sole grounds for disciplinary action.

17 Nothing contained in this Section shall act to in any way,  
18 waive or modify the confidentiality of medical reports and  
19 committee reports to the extent provided by law. Any  
20 information reported or disclosed shall be kept for the  
21 confidential use of the Disciplinary Board, the Medical  
22 Coordinators, the Disciplinary Board's attorneys, the medical  
23 investigative staff, and authorized clerical staff, as  
24 provided in this Act, and shall be afforded the same status as  
25 is provided information concerning medical studies in Part 21  
26 of Article VIII of the Code of Civil Procedure, except that the  
27 Department may disclose information and documents to a federal,  
28 State, or local law enforcement agency pursuant to a subpoena  
29 in an ongoing criminal investigation. Furthermore, information  
30 and documents disclosed to a federal, State, or local law  
31 enforcement agency may be used by that agency only for the  
32 investigation and prosecution of a criminal offense.

33 (C) Immunity from prosecution. Any individual or  
34 organization acting in good faith, and not in a wilful and

1 wanton manner, in complying with this Act by providing any  
2 report or other information to the Disciplinary Board or a peer  
3 review committee, or assisting in the investigation or  
4 preparation of such information, or by voluntarily reporting to  
5 the Disciplinary Board or a peer review committee information  
6 regarding alleged errors or negligence by a person licensed  
7 under this Act, or by participating in proceedings of the  
8 Disciplinary Board or a peer review committee, or by serving as  
9 a member of the Disciplinary Board or a peer review committee,  
10 shall not, as a result of such actions, be subject to criminal  
11 prosecution or civil damages.

12 (D) Indemnification. Members of the Disciplinary Board,  
13 the Medical Coordinators, the Disciplinary Board's attorneys,  
14 the medical investigative staff, physicians retained under  
15 contract to assist and advise the medical coordinators in the  
16 investigation, and authorized clerical staff shall be  
17 indemnified by the State for any actions occurring within the  
18 scope of services on the Disciplinary Board, done in good faith  
19 and not wilful and wanton in nature. The Attorney General shall  
20 defend all such actions unless he or she determines either that  
21 there would be a conflict of interest in such representation or  
22 that the actions complained of were not in good faith or were  
23 wilful and wanton.

24 Should the Attorney General decline representation, the  
25 member shall have the right to employ counsel of his or her  
26 choice, whose fees shall be provided by the State, after  
27 approval by the Attorney General, unless there is a  
28 determination by a court that the member's actions were not in  
29 good faith or were wilful and wanton.

30 The member must notify the Attorney General within 7 days  
31 of receipt of notice of the initiation of any action involving  
32 services of the Disciplinary Board. Failure to so notify the  
33 Attorney General shall constitute an absolute waiver of the  
34 right to a defense and indemnification.

1           The Attorney General shall determine within 7 days after  
2 receiving such notice, whether he or she will undertake to  
3 represent the member.

4           (E) Deliberations of Disciplinary Board. Upon the receipt  
5 of any report called for by this Act, other than those reports  
6 of impaired persons licensed under this Act required pursuant  
7 to the rules of the Disciplinary Board, the Disciplinary Board  
8 shall notify in writing, by certified mail, the person who is  
9 the subject of the report. Such notification shall be made  
10 within 30 days of receipt by the Disciplinary Board of the  
11 report.

12           The notification shall include a written notice setting  
13 forth the person's right to examine the report. Included in  
14 such notification shall be the address at which the file is  
15 maintained, the name of the custodian of the reports, and the  
16 telephone number at which the custodian may be reached. The  
17 person who is the subject of the report shall submit a written  
18 statement responding, clarifying, adding to, or proposing the  
19 amending of the report previously filed. The person who is the  
20 subject of the report shall also submit with the written  
21 statement any medical records related to the report. The  
22 statement and accompanying medical records shall become a  
23 permanent part of the file and must be received by the  
24 Disciplinary Board no more than 30 ~~60~~ days after the date on  
25 which the person was notified by the Disciplinary Board of the  
26 existence of the original report.

27           The Disciplinary Board shall review all reports received by  
28 it, together with any supporting information and responding  
29 statements submitted by persons who are the subject of reports.  
30 The review by the Disciplinary Board shall be in a timely  
31 manner but in no event, shall the Disciplinary Board's initial  
32 review of the material contained in each disciplinary file be  
33 less than 61 days nor more than 180 days after the receipt of  
34 the initial report by the Disciplinary Board.

1           When the Disciplinary Board makes its initial review of the  
2 materials contained within its disciplinary files, the  
3 Disciplinary Board shall, in writing, make a determination as  
4 to whether there are sufficient facts to warrant further  
5 investigation or action. Failure to make such determination  
6 within the time provided shall be deemed to be a determination  
7 that there are not sufficient facts to warrant further  
8 investigation or action.

9           Should the Disciplinary Board find that there are not  
10 sufficient facts to warrant further investigation, or action,  
11 the report shall be accepted for filing and the matter shall be  
12 deemed closed and so reported to the Secretary ~~Director~~. The  
13 Secretary ~~Director~~ shall then have 30 days to accept the  
14 Medical Disciplinary Board's decision or request further  
15 investigation. The Secretary ~~Director~~ shall inform the Board in  
16 writing of the decision to request further investigation,  
17 including the specific reasons for the decision. The individual  
18 or entity filing the original report or complaint and the  
19 person who is the subject of the report or complaint shall be  
20 notified in writing by the Secretary ~~Director~~ of any final  
21 action on their report or complaint.

22           (F) Summary reports. The Disciplinary Board shall prepare,  
23 on a timely basis, but in no event less than one every other  
24 month, a summary report of final actions taken upon  
25 disciplinary files maintained by the Disciplinary Board. The  
26 summary reports shall be sent by the Disciplinary Board to  
27 every health care facility licensed by the Illinois Department  
28 of Public Health, every professional association and society of  
29 persons licensed under this Act functioning on a statewide  
30 basis in this State, the American Medical Association, the  
31 American Osteopathic Association, the American Chiropractic  
32 Association, all insurers providing professional liability  
33 insurance to persons licensed under this Act in the State of  
34 Illinois, the Federation of State Medical Licensing Boards, and

1 the Illinois Pharmacists Association.

2 (G) Any violation of this Section shall be a Class A  
3 misdemeanor.

4 (H) If any such person violates the provisions of this  
5 Section an action may be brought in the name of the People of  
6 the State of Illinois, through the Attorney General of the  
7 State of Illinois, for an order enjoining such violation or for  
8 an order enforcing compliance with this Section. Upon filing of  
9 a verified petition in such court, the court may issue a  
10 temporary restraining order without notice or bond and may  
11 preliminarily or permanently enjoin such violation, and if it  
12 is established that such person has violated or is violating  
13 the injunction, the court may punish the offender for contempt  
14 of court. Proceedings under this paragraph shall be in addition  
15 to, and not in lieu of, all other remedies and penalties  
16 provided for by this Section.

17 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97; 90-699,  
18 eff. 1-1-99.)

19 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

20 (Section scheduled to be repealed on January 1, 2007)

21 Sec. 24. Report of violations; medical associations. Any  
22 physician licensed under this Act, the Illinois State Medical  
23 Society, the Illinois Association of Osteopathic Physicians  
24 and Surgeons, the Illinois Chiropractic Society, the Illinois  
25 Prairie State Chiropractic Association, or any component  
26 societies of any of these 4 groups, and any other person, may  
27 report to the Disciplinary Board any information the physician,  
28 association, society, or person may have that appears to show  
29 that a physician is or may be in violation of any of the  
30 provisions of Section 22 of this Act.

31 The Department may enter into agreements with the Illinois  
32 State Medical Society, the Illinois Association of Osteopathic  
33 Physicians and Surgeons, the Illinois Prairie State

1 Chiropractic Association, or the Illinois Chiropractic Society  
2 to allow these organizations to assist the Disciplinary Board  
3 in the review of alleged violations of this Act. Subject to the  
4 approval of the Department, any organization party to such an  
5 agreement may subcontract with other individuals or  
6 organizations to assist in review.

7 Any physician, association, society, or person  
8 participating in good faith in the making of a report, under  
9 this Act or participating in or assisting with an investigation  
10 or review under this Act ~~Section~~ shall have immunity from any  
11 civil, criminal, or other liability that might result by reason  
12 of those actions.

13 The medical information in the custody of an entity under  
14 contract with the Department participating in an investigation  
15 or review shall be privileged and confidential to the same  
16 extent as are information and reports under the provisions of  
17 Part 21 of Article VIII of the Code of Civil Procedure.

18 Upon request by the Department after a mandatory report has  
19 been filed with the Department, an attorney for any party  
20 seeking to recover damages for injuries or death by reason of  
21 medical, hospital, or other healing art malpractice shall  
22 provide patient records related to the physician involved in  
23 the disciplinary proceeding to the Department within 30 days of  
24 the Department's request for use by the Department in any  
25 disciplinary matter under this Act. An attorney who provides  
26 patient records to the Department in accordance with this  
27 requirement shall not be deemed to have violated any  
28 attorney-client privilege. Notwithstanding any other provision  
29 of law, consent by a patient shall not be required for the  
30 provision of patient records in accordance with this  
31 requirement.

32 For the purpose of any civil or criminal proceedings, the  
33 good faith of any physician, association, society or person  
34 shall be presumed. The Disciplinary Board may request the

1 Illinois State Medical Society, the Illinois Association of  
2 Osteopathic Physicians and Surgeons, the Illinois Prairie  
3 State Chiropractic Association, or the Illinois Chiropractic  
4 Society to assist the Disciplinary Board in preparing for or  
5 conducting any medical competency examination as the Board may  
6 deem appropriate.

7 (Source: P.A. 88-324.)

8 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

9 (Section scheduled to be repealed on January 1, 2007)

10 Sec. 36. Upon the motion of either the Department or the  
11 Disciplinary Board or upon the verified complaint in writing of  
12 any person setting forth facts which, if proven, would  
13 constitute grounds for suspension or revocation under Section  
14 22 of this Act, the Department shall investigate the actions of  
15 any person, so accused, who holds or represents that they hold  
16 a license. Such person is hereinafter called the accused.

17 The Department shall, before suspending, revoking, placing  
18 on probationary status, or taking any other disciplinary action  
19 as the Department may deem proper with regard to any license at  
20 least 30 days prior to the date set for the hearing, notify the  
21 accused in writing of any charges made and the time and place  
22 for a hearing of the charges before the Disciplinary Board,  
23 direct them to file their written answer thereto to the  
24 Disciplinary Board under oath within 20 days after the service  
25 on them of such notice and inform them that if they fail to  
26 file such answer default will be taken against them and their  
27 license may be suspended, revoked, placed on probationary  
28 status, or have other disciplinary action, including limiting  
29 the scope, nature or extent of their practice, as the  
30 Department may deem proper taken with regard thereto.

31 Where a physician has been found, upon complaint and  
32 investigation of the Department, and after hearing, to have  
33 performed an abortion procedure in a wilful and wanton manner

1 upon a woman who was not pregnant at the time such abortion  
2 procedure was performed, the Department shall automatically  
3 revoke the license of such physician to practice medicine in  
4 Illinois.

5 Such written notice and any notice in such proceedings  
6 thereafter may be served by delivery of the same, personally,  
7 to the accused person, or by mailing the same by registered or  
8 certified mail to the address last theretofore specified by the  
9 accused in their last notification to the Department.

10 All information gathered by the Department during its  
11 investigation including information subpoenaed under Section  
12 23 or 38 of this Act and the investigative file shall be kept  
13 for the confidential use of the Secretary ~~Director~~,  
14 Disciplinary Board, the Medical Coordinators, persons employed  
15 by contract to advise the Medical Coordinator or the  
16 Department, the Disciplinary Board's attorneys, the medical  
17 investigative staff, and authorized clerical staff, as  
18 provided in this Act and shall be afforded the same status as  
19 is provided information concerning medical studies in Part 21  
20 of Article VIII of the Code of Civil Procedure, except that the  
21 Department may disclose information and documents to a federal,  
22 State, or local law enforcement agency pursuant to a subpoena  
23 in an ongoing criminal investigation. Furthermore, information  
24 and documents disclosed to a federal, State, or local law  
25 enforcement agency may be used by that agency only for the  
26 investigation and prosecution of a criminal offense.

27 (Source: P.A. 90-699, eff. 1-1-99.)

28 ARTICLE 99. MISCELLANEOUS

29 Section 99-5. Liberal construction; inseverability.

30 (a) This Act, being necessary for the welfare of the State  
31 and its inhabitants, shall be liberally construed to effect its  
32 purposes.

1           (b) The provisions of this Act are mutually dependent and  
2           inseverable. If any provision is held invalid other than as  
3           applied to a particular person or circumstance, then this  
4           entire Act is invalid.

5           Section 99-99. Effective date. This Act takes effect upon  
6           becoming law.".